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## **Mineral Resources Development Act 1995**

Version current from 21 November 2017 to date (accessed 16 October 2018 at 16:57)

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## **Mineral Resources Development Act 1995**

**An Act to provide for the development of mineral resources consistent with sound economic, environmental and land use management and to repeal the Mining Act 1929**

**[Royal Assent 8 December 1995]**

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

# PART 1 - Preliminary

## 1. Short title

This Act may be cited as the Mineral Resources Development Act 1995 .

## 2. Commencement

This Act commences on a day or days to be proclaimed.

## 3. Interpretation

In this Act –

*Agency* means –

- (a) in relation to Tasmania, Agency as defined in the State Service Act 2000 ; or
- (b) in relation to the Commonwealth, a department, authority or agency of the Commonwealth government;

*approved* means approved by the Director;

*atomic substance* means –

- (a) uranium; and
- (b) thorium; and
- (c) any other substance declared to be an atomic substance under section 200 ;

*Category 1 mineral* means any –

- (a) metallic mineral; and
- (b) atomic substance;

*Category 2 mineral* means coal, peat, lignite, oil shale and coal seam gas;

*Category 3 mineral* means any rock, stone, gravel, sand and clay used in construction, bricks and ceramics;

*Category 4 mineral* means any petroleum products except oil shale;

*Category 5 mineral* means any –

- (a) industrial mineral; and
- (b) prescribed precious stone; and
- (c) prescribed semi-precious stone;

*Category 6 mineral* means any geothermal substance;

*coal seam gas* means the gas known as coal bed methane and includes any naturally occurring hydrocarbon, or mixture of hydrocarbons, that is within a deposit of coal or oil shale;

*Code of practice* means an approved Code of practice;

*compensable loss* means –

- (a) damage to the surface of the land; or
- (b) damage to crops, trees, grasses, fruit, vegetables or other vegetation on the land; or
- (c) damage to buildings, structures or works on the land; or
- (d) damage to any improvement on the land; or
- (e) loss of opportunity to make any planned improvement on the land; or

- (f) deprivation of possession or use of the whole or part of the surface of the land; or
- (g) severance of the land from other land of the owner or occupier of that land; or
- (h) destruction or loss of, or injury to, disturbance of, or interference with, stock; or
- (i) loss of amenity, including recreation and conservation values; or
- (j) any decrease in the market values of the owner's or occupier's interest in the land; or
- (k) surface rights of way and easements;

**compensation agreement** means an agreement referred to in Part 8 ;

**consolidated mining lease** means a lease in force under Part 4 ;

**Crown land** means any land vested in the Crown;

**Crown lessee** means the holder of a Crown lease;

**Crown lease** means a lease in force under the Crown Lands Act 1976 or the Forest Management Act 2013 ;

**Crown licence** means a licence in force under the Crown Lands Act 1976 ;

**Crown licensee** means the holder of a Crown licence;

**development plan**, in relation to a geothermal production licence, means a plan of development that is approved in relation to the licence;

**Director** means the Director of Mines appointed under section 8 ;

**environment** means components of the earth, including –

- (a) land, air and water; and
- (b) any organic matter and inorganic matter and any living organism; and
- (c) human-made or human-modified structures and areas –

and includes interacting natural ecosystems that include components referred to in paragraphs (a) , (b) and (c) ;

**exploration licence** means a licence in force under Part 2 ;

**explore** means to determine the existence, quality and quantity of minerals for the purpose of commercial exploitation by –

- (a) conducting geological, geophysical, geobotanical and geochemical surveys; or
- (b) drilling; or
- (c) taking samples for the purpose of chemical or other analysis; or
- (d) using appropriate instruments, equipment and techniques; or
- (e) extracting and removing from land material, mineral or other substances for sampling and testing; or
- (f) carrying out any other activity approved for the purposes of this paragraph by the Minister;

**field development plan**, in relation to a petroleum production licence, means a plan of field development that is approved in relation to the licence;

**forest road** has the same meaning as in the Forest Management Act 2013 ;

**forestry right** has the same meaning as in the Forestry Rights Registration Act 1990 ;

**fossick** means to search for minerals for a purpose other than for commercial gain to a depth of 2 metres by –

- (a) digging by hand; or

(b) using hand held instruments;

**fossil** means any remains, trace or imprint of a plant or animal that is preserved by normal processes in the earth's crust;

**gas** means any naturally occurring hydrogen, hydrogen sulphide, nitrogen, helium or carbon dioxide;

**geology** means the geosciences;

**geoscientific** means relating to geology, geochemistry, geophysics, mineralogy and palaeontology;

**Geoscientific Trust Fund** means the Geoscientific Investigation and Research Trust Fund established under Part 9 ;

**geothermal energy** means thermal energy that was contained in subsurface rock or other subterranean substances;

**geothermal production licence** means a geothermal production licence in force under Part 3A ;

**geothermal reservoir** means part of a geological structure, including such a structure that has been modified by human activity, which part is suitable for the transmission of a geothermal substance;

**geothermal resource**, in relation to a geothermal production licence, means the amount, determined in accordance with an approved method by the person who holds or has applied for the licence, of geothermal energy that may be produced from geothermal substances within the area of land to which the licence relates or is to relate;

**geothermal substance** means a substance occurring naturally or introduced underground which is heated by the natural processes of the earth to a temperature in excess of 40° Celsius;

**group prospecting licence** means a group prospecting licence in force under Part 5 ;

**industrial mineral** means any mineral prescribed as an industrial mineral;

**inspector** means an inspector appointed under section 8 ;

**land** includes –

- (a) land within the beds or banks of any stream and watercourse; and
- (b) land beneath the internal waters of Tasmania; and
- (c) the sea bed; and
- (d) waters in, upon or above land; and
- (e) stratum of land;

**lease** means a mining lease in force under Part 4 ;

**lease area** means an area of land which is subject to a lease;

**lessee** means the holder of a lease;

**licence** means –

- (a) in Part 2 , an exploration licence in force under that Part; and
- (ab) in Part 2A , a special exploration licence in force under that Part; and
- (b) in Part 3 , a retention licence in force under that Part; and
- (ba) in Part 3A , a production licence in force under that Part; and
- (c) in Part 5 , a prospecting licence and a group prospecting licence, in force under that Part; and
- (d) in any other Part, any licence in force under this Act;

**licence area** means an area of land which is subject to an exploration licence, a special exploration licence, a production licence or a retention licence;

**licensee** means –

- (a) in Part 2 , the holder of an exploration licence; and
- (ab) in Part 2A , the holder of a special exploration licence; and
- (b) in Part 3 , the holder of a retention licence; and
- (ba) in Part 3A , the holder of a production licence; and
- (c) in Part 5 , the holder of a prospecting licence or group prospecting licence; and
- (d) in any other Part, the holder of any licence in force under this Act;

**Magistrates Court (Civil Division)** means the division of the Magistrates Court established under section 4 of the Magistrates Court (Civil Division) Act 1992 ;

**metallic mineral** means any mineral prescribed as a metallic mineral;

**mine** means any place where mining is being carried out;

**mineral** means any metallic mineral, non-metallic mineral, industrial mineral, inorganic substance, coal, oil, gas, petroleum, geothermal substance, atomic substance and matter forming part of the crust of the earth, other than–

- (a) the subsoil; or
- (b) the layer of soil sustaining vegetation; or
- (c) any rock, crushed stone, gravel, sand or clay produced on private land for the private use of the owner; or
- (d) mineral water; or
- (e) any mineral produced as a by-product of a mining operation and stored as a waste product on a lease area and not sold or otherwise disposed of to another person;

**Mineral Exploration Code of Practice** means the Code of practice of that name approved from time to time under section 204 ;

**mineral tenement** means a licence or lease other than a prospecting licence or a group prospecting licence;

**mining** means any operation or work, other than fossicking or prospecting, carried out to obtain minerals;

**mining lease** means a mining lease in force under Part 4 ;

**mining operations** means any operations or work carried out on a lease area –

- (a) to obtain or treat minerals; or
- (b) to store or contain minerals or waste material generated by mining on that lease area or another lease area; or
- (c) associated with mining –

and includes production activities in relation to a Category 4 mineral or a Category 6 mineral;

**mining plan**, in relation to a lease or an application for a lease, means a plan that sets out information required by the Director including, but not limited to including, the following:

- (a) the name of the minerals, or category of minerals, to which the lease or application relates;
- (b) the site plan, which is to include –
  - (i) the means by which access to the area of land comprised in the lease is to be obtained;
  - and

- (ii) the infrastructure proposed to be situated on the area of land comprised in the lease; and
  - (iii) surface hydrology for the area of land comprised in the lease; and
  - (iv) other matters related to activities under the lease;
- (c) the proposals for treatment of, transport of, handling of, and storage of, waste from –
- (i) minerals obtained under the lease; or
  - (ii) the substances from which minerals are to be obtained under the lease;
- (d) the requirements for water to be used in mining operations under the lease;
- (e) the proposed stages of development under the lease and of any proposed rehabilitation of land in the area of land comprised in the lease;
- (f) the provision to be made in relation to closure of the mine on the lease area after mining under the lease ceases;
- (g) a description of the potential geological and environmental risks associated with mining operations under the lease;

**mining product** means any mineral obtained by mining;

**Mining Tribunal** means the Mining Tribunal established under Part 7 ;

**native title** means an approved determination of native title under the Native Title Act 1993 of the Commonwealth the details of which are recorded in the National Native Title Register under that Act;

**occupier**, in relation to land, means a person in lawful possession of the land;

**oil** means any natural gas, solid bitumen and mineral oil obtainable by a well other than –

- (a) mineral oil extractable by the application of heat or chemical process; and
- (b) helium or hydrogen; and
- (c) coal seam gas;

**oil shale** means shale containing fossilised insoluble organic matter which will yield liquid or gaseous hydrocarbons on distillation;

**owner** includes –

- (a) the holder of any Crown land under a contract of sale and purchase; and
- (b) the holder of native title to any land;

**person** includes an Agency;

**petroleum** means any –

- (a) naturally occurring hydrocarbon or mixture of hydrocarbons, whether in a gaseous, liquid or solid state; or
- (b) mixture of one or more such hydrocarbons and gas –

but does not include coal seam gas;

**petroleum production licence** means a petroleum production licence in force under Part 3A ;

**petroleum reservoir** means part of a geological structure (including such a structure that has been modified by human activity) –

- (a) in which gas or petroleum has accumulated; and
- (b) that is suitable for the storage and transmission of gas or petroleum;

***petroleum resource***, in relation to a petroleum production licence, means an amount, determined in an approved manner by the person who holds or has applied for the licence, of petroleum contained in a petroleum reservoir to which the licence relates or is to relate;

***plan of development***, in relation to an application for a geothermal production licence, means a plan that sets out information required by the Director in relation to –

- (a) the geothermal resource to which the licence is to relate; and
- (b) how access to geothermal substances is to be obtained under the licence; and
- (c) how geothermal energy that is produced under the licence is to be used; and
- (d) how geothermal resources are to be managed under the licence; and
- (e) how geothermal reservoirs are to be managed under the licence; and
- (f) any other matter the Director thinks fit;

***plan of field development***, in relation to an application for a petroleum production licence, means a plan that sets out information required by the Director in relation to –

- (a) the petroleum resources to which the licence is to relate; and
- (b) how access to the petroleum resources is to be obtained under the licence; and
- (c) how the petroleum resources are to be managed under the licence; and
- (d) how petroleum reservoirs are to be managed under the licence; and
- (e) any other matter, in relation to production activities under the licence, that the Director thinks fit;

***forest road*** has the same meaning as in the Forest Management Act 2013 ;

***forestry right*** has the same meaning as in the Forestry Rights Registration Act 1990 ;

***private land*** means any land that is not Crown land;

***produced*** –

- (a) in relation to geothermal energy – see section 3A(2) ; and
- (b) in relation to petroleum – see section 3B(4) ;

***production activities*** – see section 3B ;

***production licence*** means a petroleum production licence or a geothermal production licence;

***prospect*** means to explore for minerals to a depth of less than 2 metres below the surface of the earth or of any pre-existing excavation by means of a hand held instrument;

***prospecting licence*** means a prospecting licence in force under Part 5 ;

***public land*** means –

- (a) any Crown land; and
- (b) any land vested in a body or authority established under a law of the State for a public purpose; and
- (c) any land vested in a body corporate in which the Crown has a controlling interest;

***public purpose*** means a purpose for the benefit of the public in general;

***public reserve*** means any land reserved for a public purpose;

***quarter*** means a period of 3 months ending on 31 March, 30 June, 30 September or 31 December in any year;

***record*** includes any document, financial statement or plan stored or maintained by any means;

**register** means the mining register kept under Division 5 of Part 10 ;

**Registrar** means the Registrar of Mines appointed under section 8 ;

**Rehabilitation Trust Fund** means the Rehabilitation of Mining Lands Trust Fund established under Division 4 of Part 10 ;

**relevant period** means the period starting when an improvement on land was made and ending when the damage to the improvement occurred;

**retention licence** means a licence in force under Part 3 ;

**reporting guidelines** means guidelines issued under section 204A for the preparation of mineral tenement reports and returns by licensees or lessees;

**security deposit** means a cash deposit or any other form of security the Minister determines to –

- (a) cover any damage to private property; or
- (b) cover failure to meet work program or licence commitments; or
- (c) provide funds to mitigate any damage to the environment during mining operations or exploration;

**sell** includes –

- (a) offer or agree to sell; and
- (b) keep or have in possession for sale; and
- (c) dispose of; and
- (d) barter or exchange; and
- (e) transfer; and
- (f) expose for sale; and
- (g) send, deliver or receive for sale; and
- (h) cause or permit to be sold;

**special exploration licence** means a licence in force under Part 2A ;

**speleothem** means a formation formed within a cave which is –

- (a) a mineral; or
- (b) a precipitate; or
- (c) an accumulation of non-precipitate material;

**State forest** means permanent timber production zone land within the meaning of the Forest Management Act 2013 ;

**stone** means –

- (a) sandstone, freestone and other building stone; and
- (b) basalt, dolerite, granite, slate, limestone and rock of a kind ordinarily used for building or construction purposes; and
- (c) quartz, other than quartz crystals; and
- (d) slate and gravel; and
- (e) pipeclay and clay, other than fireclay, bentonite or kaolin; and
- (f) sand and soil; and
- (fa) limestone and dolomite used for agricultural purposes; and

(g) other similar materials;

*stratum of land* means a specific part of land of any shape below or on the surface of land;

*work program* means an approved program of work.

### 3A. Meaning of *obtaining minerals*, and *produced*, in relation to geothermal energy

- (1) A reference in this Act to *obtaining minerals* includes a reference to producing geothermal energy.
- (2) For the purposes of this Act, geothermal energy is produced when the energy reaches the surface of the earth as a result of production activities.

### 3B. Meaning of *production* and of *production activities*

- (1) In this Act, *production activities*, in relation to a Category 4 mineral, means –
  - (a) the carrying out of an activity to release, or recover, petroleum from a petroleum reservoir in which it is contained and the execution of the works necessary to carry out that activity; and
  - (b) the injection of petroleum, carbon dioxide, water or some other product into a petroleum reservoir; and
  - (c) any other kind of activity that is prescribed by the regulations to be a production activity in relation to a Category 4 mineral.
- (2) In this Act, *production activities*, in relation to a Category 6 mineral, means –
  - (a) the carrying out of an activity to produce geothermal energy relating to the mineral and the carrying out of the activities, and the execution of the works, necessary for that purpose; and
  - (b) the injection of water, or another substance, into a geothermal reservoir; and
  - (c) any other kind of activity that is prescribed by the regulations to be a production activity in relation to a Category 6 mineral.
- (3) In this Act, *production activities*, in relation to a Category 4 mineral or a Category 6 mineral, does not include producing petroleum or geothermal energy as a by-product of mining operations for the purpose of obtaining any other mineral.
- (4) For the purposes of this Act, a Category 4 mineral is produced when it reaches the surface of the earth.

## 4. Act binds Crown

This Act binds the Crown in the right of Tasmania and, so far as the legislative power of Parliament permits, in all its other capacities.

## 5. Application of Act

- (1) Subject to this section, this Act applies to all land and minerals in the State.
- (2) Subject to subsection (3), this Act does not apply to the surface, or within 15 metres below the surface, of any land which is set apart or dedicated for any public purpose, other than as –
  - (a) a public reserve within the meaning of the Crown Lands Act 1976; or
  - (b) permanent timber production zone land within the meaning of the Forest Management Act 2013.
- (3) The Minister, by order and with the agreement of any other appropriate Minister, may declare that this Act or any specified provision of this Act applies to –
  - (a) . . . . .
  - (b) any specified land set apart or dedicated for any public purpose.
- (4) The Minister, by order, may declare that any specified area of land or any specified mineral is exempt from this Act.

(4A) A person must not explore, undertake mining on, or remove minerals from, any area of land in contravention of an order under subsection (4) .

(5) The holder of an exploration licence or a special exploration licence must not exercise any right conferred by the licence within an area of land exempted under subsection (4) without the Minister's approval.

Penalty: Fine not exceeding 10 penalty units.

(6) This Act does not apply to the mining of—

(a) Category 3 minerals carried out by the Crown in a State forest or on future potential production forest land within the meaning of the Forestry (Rebuilding the Forest Industry) Act 2014 in accordance with the Forest Practices Code under the Forest Practices Act 1985 for the purpose of supplying materials for the construction of a forest road for providing access to a State forest; or

(b) Category 3 minerals carried out by the Crown from a quarry in a State forest and sold at a rate of less than 100 tonnes per year.

(7) Sections 19 , 54 and 79 do not apply to the prescribed area of land in the municipal area of Dorset.

(8) This Act does not extinguish or impair any native title rights and interests recognised under the Native Title Act 1993 of the Commonwealth.

(9) This Act applies to reserved land within the meaning of the Nature Conservation Act 2002 and a public reserve within the meaning of the Crown Lands Act 1976 .

## **6. Ownership of minerals and substances**

(1) All minerals held in private ownership at the commencement of this Act continue to be so held.

(2) Any minerals not held in private ownership vest in the Crown.

(3) Any minerals on any Crown land which is sold or otherwise disposed of remain vested in the Crown.

(4) Any gold, silver, atomic substance, helium, geothermal substance, petroleum, hydrogen and oil existing in a natural state on or below the surface of land vests in the Crown.

(5) Any Category 3 minerals are owned by the owner of the surface of the land regardless of the depth at which they occur.

(6) Subsection (5) does not affect the operation of subsection (3) .

## **7. Non-application of Act to certain minerals**

This Act does not apply to any Category 3 mineral on private land which is mined for the use of the owner or occupier or sold at a rate of less than 100 tonnes each year.

## **8. Director, Registrar and inspectors**

(1) The Minister may appoint a State Service officer or State Service employee to be the Director of Mines.

(2) The Director may appoint –

(a) a person to be the Registrar of Mines; and

(b) persons to be inspectors.

(3) A person who holds the position of Director, Registrar or an inspector, may hold that position in conjunction with State Service employment.

(4) The Director may authorise a person employed in the Department to perform the functions and exercise the powers of the Registrar.

(5) A person who, immediately before the commencement of the *Mineral Resources Development Amendment Act 2017*, held the position of Director, Registrar or an inspector continues to hold that position on the same terms and conditions.

## 9. Powers of inspectors

- (1) An inspector, at any reasonable time for the purpose of ascertaining whether or not the provisions of this Act are being contravened or are being complied with, may do any or all of the following:
- (a) enter, remain on and pass over any land;
  - (b) enter, remain on and inspect any mine;
  - (c) enter, remain on and inspect any place the inspector reasonably believes is being used for mining;
  - (d) examine any plant or any other thing in a mine;
  - (e) remove any material or substance from a plant or mine;
  - (f) seize anything which the inspector believes on reasonable grounds is the means by which the provisions of this Act or standards specified in a Code of practice have been contravened or not complied with;
  - (g) require the production of any relevant documents;
  - (h) inspect, examine and make copies of, or extracts from, relevant documents;
  - (i) remove relevant documents to make a copy or extract;
  - (j) take any photographs or audio or video recordings that the inspector considers necessary;
  - (k) require a person to state his or her name and address if –
    - (i) the person is found committing an offence against this Act or is not conducting mining operations or exploration consistent with standards specified in a relevant Code of practice; or
    - (ii) the inspector believes on reasonable grounds that the person has committed an offence against this Act or is not conducting mining operations or exploration consistent with standards specified in a relevant Code of practice; or
    - (iii) the person is a person whose name and address are, in the opinion of the inspector, reasonably required;
  - (l) require any person to give any assistance reasonably required to exercise any power referred to in this situation.
- (2) An inspector may be accompanied by any assistant as is necessary to exercise any power under this Act.
- (3) An inspector must not exercise any powers under this section so as to unnecessarily impede or obstruct the working of a mine.

## 10. Obstructing inspectors

A person must not –

- (a) obstruct, threaten or intimidate or attempt to obstruct, threaten or intimidate an inspector in the exercise of the inspector's powers; or
- (b) contravene or fail to comply with any lawful requirement of an inspector; or
- (c) fail to give assistance or information to an inspector if required to do so; or
- (d) if required to state his or her full name and address –
  - (i) fail to do so; or
  - (ii) state a false name or address; or
- (e) impersonate an inspector.

Penalty: Fine not exceeding 50 penalty units.

## **PART 2 - Exploration Licences**

### ***Division 1 - Applications***

#### **11. Application for exploration licence**

- (1) A person may apply to the Minister for an exploration licence.
- (2) An application is to –
  - (a) be in an approved form; and
  - (b) specify the minerals, or category of minerals, in respect of which it is made; and
  - (c) be accompanied by a statement specifying –
    - (i) the work to be carried out on activities under the licence sought; and
    - (ii) a description of the area of land in respect of which the licence is sought; and
    - (iii) the financial and technical resources available to the applicant; and
    - (iv) an estimate of the proposed expenditure on activities under the licence; and
    - (v) the likely impact on the environment of activities under the licence; and
  - (d) be accompanied by the prescribed fee; and
  - (e) contain any other prescribed details; and
  - (f) be lodged with the Registrar.
- (3) The Registrar or Director or both may require an applicant to provide further information.
- (4) The holder of a special exploration licence may only apply for a licence in relation to an area of land that is, in whole or in part, specified in the special exploration licence, if –
  - (a) the application is in relation to a mineral, or a category of minerals, to which that special exploration licence relates; and
  - (b) the area of land does not exceed the area of land specified in section 21(1) in respect of the mineral or the category of minerals.
- (5) If a relevant licence, within the meaning of section 161E(1), ceases to be in force in relation to an area of land, a person may not, until a date specified by the Director, in accordance with section 161E(2)(c), in a notice under section 161E(2) in relation to the licence, apply for a licence that is to relate to both –
  - (a) all or part of the area of land that is specified in the notice; and
  - (b) a mineral, or the category of minerals, specified in the notice.

#### **12. Priority of applications**

- (1) If more than one application is received for a licence in respect of all or part of the same land, the order of priority is as follows:
  - (a) for applications received on different days, an application received on an earlier day has priority over an application received on a later day;
  - (b) for applications received on the same day, the order of priority is as determined by the Director according to the relative merits of the applications;
  - (c) for applications received on the same day which are determined by the Director to be of equal merit, the order of priority is as determined by a ballot conducted in an approved manner.
- (1A) If a notice has been published under section 161E in relation to an exploration licence or retention licence, applications –

- (a) for a licence that is to relate to both –
    - (i) all or part of the area of land that is specified in the notice; and
    - (ii) a mineral, or the category of minerals, specified in the notice; and
  - (b) that are received up to and including 4 working days after the date specified in the notice –
- are to be taken to be received on the same day.

(2) An application that has priority over any other application is to be determined without reference to any other application.

(3) The Director is to notify an applicant –

- (a) that the application of the applicant has priority over any other application; or
- (b) that the application of another applicant has priority; or
- (c) if the priority of an application of the applicant has altered because another application is withdrawn or refused or has lapsed under section 13 .

(4) The Registrar is to reject any application received later than 3 months after receipt of another application determined to have priority.

### **13. Pending application**

(1) An application for a licence is pending from the day on which it is lodged until whichever of the following happens first:

- (a) the application is granted;
- (b) the application is refused;
- (c) the application lapses;
- (d) the application is withdrawn.

(2) An application for a licence lapses –

- (a) 12 months after it is lodged, if it is not determined or withdrawn by that time; or
- (b) at a later date fixed by the Director if –
  - (i) the failure to determine the application was not caused by a default of the applicant; or
  - (ii) there is, in the opinion of the Director, a sufficient reason for fixing a later date.

### **14. Recommendation of application for exploration licence**

(1) The Director is to consider an application for a licence.

(2) If the Director intends to recommend to the Minister that the application be granted, the Director is to –

- (a) notify that intention by notice in writing –
  - (i) to the applicant; and
  - (ii) as required under section 29 of the Native Title Act 1993 of the Commonwealth; and
- (b) publish a notice of that intention in a newspaper circulating in the relevant area.

(3) A notice under subsection (2) (b) is to specify –

- (a) the name of the applicant; and
- (b) the area of land in respect of which the application is made; and
- (c) any other prescribed matter.

(4) . . . . .

## **15. Objection to exploration licence**

- (1) Any person with an interest or estate in land within the area specified in a notice published under section 14 (2) (b) , or who is the holder of a mineral tenement in respect of such land, may object to the granting of the application for a licence in respect of that land.
- (2) An objection is to –
  - (a) be in writing; and
  - (b) specify the grounds; and
  - (c) be accompanied by the prescribed fee; and
  - (d) be lodged with the Registrar within 28 days after the date of the publication of the notice under section 14 (2) (b) .
- (3) An objection is to be heard and determined by the Mining Tribunal.

## **15A. Alteration of application, &c., before notice published**

- (1) A person who has applied for a licence may, by notice to the Director, alter –
  - (a) the application for the licence; or
  - (b) the statement accompanying, in accordance with section 11(2)(c) , the application for the licence.
- (2) The alterations to an application for a licence that may be specified in a notice under subsection (1) include, but are not limited to including, alterations of –
  - (a) the minerals, or the category of minerals, in respect of which the application is made; and
  - (b) the area of land in respect of which the licence is sought.
- (3) A notice may only be given to the Director under subsection (1) before notice of the application is published under section 14(2)(b) , including publication of such a notice in accordance with section 17(2)(a) .
- (4) An application altered under subsection (1) is, as so altered, to be taken to be the application as lodged under section 11 .

## **16. Alteration of application after objection**

- (1) If the Mining Tribunal upholds an objection relating to any part of the land in respect of which an application for a licence is made, it may allow the applicant to alter the application by excluding that part.
- (2) An application for a licence altered under subsection (1) is, as so altered, to be taken to be the application as lodged under section 11 .

## **17. Granting application for exploration licence**

- (1) After considering an application for a licence and any recommendation of the Director and subject to any decision of the Mining Tribunal, the Minister may –
  - (a) grant the application; or
  - (b) refuse to grant the application.
- (2) If the Minister intends to grant an application for a licence contrary to the recommendation of the Director –
  - (a) the Director is to notify that intention in accordance with section 14 (2) and (3) ; and
  - (b) a person with an interest or estate in the land in respect of which the licence is sought is entitled to object in accordance with section 15 .
- (3) The Minister, by notice in writing, must notify the applicant of –
  - (a) the grant of the application; or
  - (b) the refusal to grant the application and the reasons for the refusal.

## **17A. When application for licence may be granted or refused**

- (1) The Minister may only grant an application for a licence if the Minister is satisfied that the applicant –
  - (a) intends to do work for the purposes of the licence; and
  - (b) intends to comply with this Act; and
  - (c) has an appropriate program of work; and
  - (d) has provided sufficient information relating to the likely impact on the environment of activities under the licence; and
  - (da) has provided a copy of the applicant's current public liability insurance policy; and
  - (e) has provided a security deposit.
- (2) The Minister may only grant an application for a licence if the Minister is satisfied that the applicant –
  - (a) has –
    - (i) sufficient technical and financial resources; or
    - (ii) obtained an agreement, contract, or other arrangement, with another person to ensure the provision of sufficient technical and financial resources –

to enable the carrying out of the program of work in relation to the application for the first 2 years after the application is granted; and
  - (b) is likely to have sufficient technical and financial resources to enable the carrying out of the program of work for the remainder of the period of the licence after the first 2 years after the application is granted.
- (3) The Minister may refuse to grant an application for a licence by an applicant if the Minister is of the opinion that the application ought to be refused because –
  - (a) of significant, or repeated, breaches of this Act or the regulations by –
    - (i) the applicant; or
    - (ii) a person, authorised or employed by the applicant, who committed the breach, or breaches, in relation to activities under a licence of any kind, or a lease, of the applicant; or
  - (b) the applicant has failed to comply with the conditions subject to which an application under this Act by the applicant for a licence of any kind, or a lease, was granted; or
  - (c) the applicant has failed to substantially carry out as much of a work program, development plan, field development plan, or mining plan, in relation to a licence of any kind, or a lease, of the applicant, as ought reasonably be expected to have been carried out at the time the application is made.

## **18. Conditions of exploration licence**

- (1) The Minister may grant an application for a licence subject to any conditions the Minister considers appropriate.
- (2) If a licence is held by 2 or more persons, those persons are jointly and severally liable for complying with the conditions of the licence.
- (2A) Without limiting the generality of subsection (1), the conditions that may be imposed include –
  - (a) a condition as to the minimum amount of money that is to be expended –
    - (i) during the period in which the licence is in force; or
    - (ii) during one or more periods, in which the licence is in force, specified in the licence –

or both, for the purposes of, or in relation to, exploration under the licence; and
  - (b) a condition requiring the completion of work programs in relation to the licence –

- (i) during the period in which the licence is in force; or
  - (ii) during one or more periods, in which the licence is in force, specified in the licence –
- or both, for the purposes of, or in relation to, exploration under the licence.
- (3) The Minister may vary the conditions of the licence by rescinding, adding, substituting or amending a condition.
- (4) Before varying the conditions of a licence, the Minister, by notice in writing served on the licensee, is to notify the licensee of–
- (a) the intention to vary the conditions; and
  - (b) the nature of the variation; and
  - (c) the right of the licensee to make submissions in relation to the matter within a period specified in the notice.
- (5) A licensee may appeal to the Mining Tribunal against the Minister's decision to vary the conditions of a licence within 28 days after the date of the decision.
- (6) The variation of the conditions of the licence takes effect–
- (a) if an appeal is not made under subsection (5) , 28 days after service of a notice under subsection (4) ;
  - or
  - (b) if an appeal is made under subsection (5) and the Mining Tribunal makes an order affirming the decision, 10 days after the date of the order.

#### **19. Restriction on exploration in relation to private land**

The holder of a licence, a person authorised by the holder of a licence, and a person acting under a contract of service, or a contract for services, with the holder of a licence, must not explore on private land within 100 metres of –

- (a) the surface of any natural lake, artificial lake, dam, reservoir, water-producing well, or artificial pond, part or all of which is on the land; or
- (b) any dwelling, or substantial building, on the land –

unless the holder of the licence has the consent of the owner and of the occupier of the land to do so.

Penalty: Fine not exceeding 100 penalty units.

### ***Division 2 - Exploration licences***

#### **20. Exploration licence**

- (1) On granting an application for a licence, the Minister is to issue an exploration licence.
- (2) A licence is to –
- (a) be in an approved form; and
  - (b) include the following particulars:
    - (i) a description of the area of land comprised in the licence;
    - (ii) the total area of that land;
    - (iii) the minerals, or category of minerals, to which the licence relates;
    - (iv) the terms and conditions to which it is subject;
    - (v) the period for which it is in force.
- (3) A licensee is to pay rent to the Crown in respect of the land comprised in the licence at a prescribed rate and in a prescribed manner.

**21. Area of land comprised in exploration licence**

- (1) The area of land comprised in a licence must not exceed –
  - (a) for a licence in respect of Category 1, 2, 3 and 5 minerals, 250 square kilometres; or
  - (b) for a licence in respect of Category 6 minerals, 500 square kilometres; or
  - (c) for a licence in respect of Category 4 minerals, an area determined by the Minister.
- (2) Land comprised in a licence may be either or both of the following:
  - (a) the same size as, or smaller than, the area of land in respect of which the licence was sought;
  - (b) different in shape from the area of land in respect of which the licence was sought.
- (3) An area of land comprised in a licence (*the relevant licence*) in respect of a mineral, or category of minerals, must not include an area which –
  - (a) is the subject of a licence of any kind in respect of the same mineral, or category of minerals, other than a special exploration licence held by the person to whom the application for the relevant licence is granted; or
  - (b) is the subject of a lease or an application for a lease; or
  - (c) is the subject of an application for a retention licence in respect of the same mineral or category of minerals.

**22. Exploration licence for small areas**

- (1) The Minister may, under section 17 , grant an application for a licence to a person in respect of an area no greater than one square kilometre.
- (2) A licence to which subsection (1) applies may be in respect of any mineral, or category of minerals, specified in the licence.
- (3) . . . . .
- (4) A person is entitled to hold only one licence to which subsection (1) applies.

**23. Authority of exploration licence**

- (1) A licence authorises the holder of the licence, a person authorised by the holder of the licence, and a person acting under a contract of service, or a contract for services, with the holder of the licence–
  - (a) to explore, in accordance with the conditions of the licence, in the area of land specified in the licence for minerals, or minerals within the category of minerals, specified in the licence; and
  - (b) to enter on, and pass over, Crown land for that purpose, in accordance with the conditions of the licence; and
  - (c) subject to subsection (2) , to enter on, and pass over, private land, in accordance with the conditions of the licence, for that purpose.
- (2) A person may only enter on, or pass over, private land by giving written notice in an approved form to the owner or occupier of the land 14 days or any shorter period the owner or occupier allows before doing so.
- (3) A person must not hinder or obstruct a licensee from carrying out any activity under the licence.

Penalty: Fine not exceeding 100 penalty units.

- (4) A person must not sell any mineral recovered during exploration without the approval of the Director.

Penalty: Fine not exceeding 500 penalty units or revocation of the licence, or both.

**24. Term of exploration licence**

A licence, unless revoked earlier or unless the term of the licence is extended under section 25 , is in force–

- (a) for a period of 5 years from the date on which the application is granted, in respect of Category 1, 2 and 3 minerals; or
- (b) for a period the Minister determines from the date on which the application is granted, in respect of Category 4 minerals; or
- (c) for a period of 5 years from the date on which the application for the licence is granted, in respect of Category 5 minerals or Category 6 minerals.

## **25. Extension of term of licence**

- (1) A person may apply to the Minister for an extension of the term of a licence.
- (2) An application is to be –
  - (a) in an approved form; and
  - (b) accompanied by the prescribed fee; and
  - (c) lodged with the Registrar before the licence ceases to be in force.
- (3) The Minister may –
  - (a) grant the application for any further period the Minister determines and with or without any conditions; or
  - (b) refuse to grant the application.
- (4) The Minister must grant the application if satisfied that –
  - (a) the exploration to be carried out during the term of the licence has been completed; and
  - (b) the licensee has submitted any report or return as required; and
  - (c) the licensee has submitted a suitable program of work for the period of extension; and
  - (d) further detailed exploration is justified because substantiated results indicate the probability of a discovery leading to profitable mining operations.
- (5) The Minister, by notice in writing, must notify the applicant of –
  - (a) the grant of the application; or
  - (b) the refusal to grant the application and the reasons for the refusal.
- (6) A licensee may appeal to the Mining Tribunal against the Minister's refusal to grant the application within 28 days after receipt of a notice under subsection (5)(b).
- (7) A licence to which an application under subsection (1) relates remains in force until–
  - (a) the Minister makes a decision under subsection (3) ; or
  - (b) if an appeal is made under subsection (6) , the Mining Tribunal makes an order in relation to the appeal; or
  - (c) if the date on which the licence would, if the application were not granted, expire is a date later than the date on which a decision or order referred to in paragraph (a) or (b) occurs – the date on which the licence would expire.

## **26. Minimum expenditure**

- (1) The Minister may, in relation to a licence, determine the minimum amount of money that the Director may require the holder of the licence to expend, in each 12-month period for which the licence is in force, in relation to exploration activities that are required by the work program in respect of the licence to be carried out.
- (2) The Director, by notice served on the holder of a licence, may specify –
  - (a) the minimum amount determined by the Minister under subsection (1) in relation to the licence; and

(b) that the holder of the licence is required to expend, in each 12-month period for which the licence is in force, in relation to exploration activities that are required by the work program in respect of the licence to be carried out, at least the amount specified in the notice under paragraph (a) .

(3) The holder of a licence on whom a notice is served under subsection (2) must, in each 12-month period for which the licence is in force, expend, in relation to exploration activities that are required by the work program in respect of the licence to be carried out, at least the amount of money that is specified in the notice.

(4) The Director may not specify in a notice under subsection (2) in relation to the holder of a licence a period, if the period is a period specified in a condition, of the kind referred to in section 18(2A) , that is imposed on the licence.

## **27. Exemption from conditions of exploration licence**

(1) A licensee may apply to the Minister for an exemption from any condition of a licence.

(2) An application is to be –

- (a) in an approved form; and
- (b) accompanied by the prescribed fee; and
- (c) lodged with the Registrar.

(3) The Minister may –

- (a) grant the application; or
- (b) refuse to grant the application.

(4) If the Minister grants the application, the Minister is to issue the licensee with a certificate of exemption.

(5) A certificate of exemption –

- (a) remains in force for the period specified in the certificate; and
- (b) is subject to any conditions specified in the certificate.

## **28. Annual report**

(1) The holder of a licence is, in each year, to submit to the Director, by –

- (a) the anniversary, in that year, of the day on which the application for the licence was granted; or
- (b) a day, after that anniversary, specified under subsection (1A) in relation to the licence –

a report (*an annual report*) in relation to the 12-month period immediately before that anniversary.

(1A) The Director may, by notice in writing to the holder of a licence, specify a day for the purposes of subsection (1)(b) in relation to the licence.

(2) The annual report is to –

- (a) be in accordance with the reporting guidelines; and
- (b) specify the amounts expended in respect of any exploration carried out during the 12-month period to which the report relates; and
- (c) contain a summary of the matters specified in section 187 (2) ; and
- (d) give details of any work that is proposed to be undertaken under the licence in the future; and
- (e) contain any other matter relating to the licence that is specified in the reporting guidelines, or by the Director by notice in writing to the holder of the licence, as being required to be contained in the report.

(3) . . . . .

## **28AA. Final report**

(1) Within 3 months after the expiration, surrender or revocation of a licence, the licensee must submit to the Director a report (a **final report**) in relation to the period of the licence.

(2) The final report is to –

(a) be in accordance with the reporting guidelines; and

(b) contain any other matter relating to the licence that is specified in the reporting guidelines, or by the Director by notice in writing to the licensee, as being required to be contained in the report.

## **28A. Returns**

(1) A licensee, if requested by the Director by notice in writing, is to submit to the Director, within 28 days after the end of a quarter, a return (a **quarterly return**) in relation to the quarter.

(2) A quarterly return is to be in the approved form, if any.

(3) A quarterly return in relation to a licence is to –

(a) specify the expenditure, during the quarter to which the return relates, on each category of exploration, under the licence, that is listed in the approved form, if any; and

(b) specify the progress of the exploration program under the licence during the quarter; and

(c) specify any rehabilitation, of the area of land comprised in the licence, that was undertaken during the quarter; and

(d) contain any other information that is specified in the form, in the reporting guidelines, or by the Director by notice in writing to the licensee, as being required to be contained in the return.

(4) A licensee, by the anniversary, in each year, of the date on which the application for the licence is granted, is to submit to the Director a return (an **annual return**) in relation to the 12-month period before that anniversary.

(5) An annual return is to be in the approved form, if any.

(6) The Director, by notice to a licensee, may require the licensee to submit to the Director, by the date or dates specified in the notice, the information specified in the notice as required to be submitted by the licensee.

(7) A licensee must submit to the Director, by the date or dates specified in a notice to the licensee under subsection (6), the information specified in the notice as required to be submitted by the licensee.

Penalty: Fine not exceeding 50 penalty units.

(8) The information specified in an approved form, or a notice under this section, as required to be submitted by the licensee, may include an audited report.

## **29. Duties under exploration licence**

A licensee must –

(a) carry out any exploration efficiently and effectively; and

(b) carry out any exploration and rehabilitation of land consistent with the standards specified in any relevant Code of practice.

## **30. Exploration without licence**

A person must not, on an area of land comprised in a licence, explore for minerals to which the licence relates, unless the person –

(a) is the holder of the licence; or

(b) is authorised by the holder of the licence to explore for the minerals; or

(c) is exploring for the minerals under a contract of service, or a contract for services, with the holder of the licence; or

(d) has obtained the written consent of the holder of the licence.

Penalty: Fine not exceeding 100 penalty units.

### ***Division 3 - Dealings with licences***

#### **31. Variation of exploration licence**

- (1) The Minister, with the approval of the licensee, by notice in writing, may vary the licence by –
  - (a) adding to, or reducing, the area of land comprised in the licence; or
  - (b) adding a mineral or category of minerals to, or removing a mineral or category of minerals from, any mineral or category of minerals to which the licence relates.
- (2) On the application of a licensee, the Minister, by notice in writing, may vary the licence by –
  - (a) adding to, or reducing, the area of land comprised in the licence; or
  - (b) adding a mineral or category of minerals to, or removing a mineral or category of minerals from, the minerals or category of minerals to which the licence relates.
- (3) If a licensee fails to comply with, or contravenes, a provision of this Act or a condition of the licence, the Minister may vary the licence by –
  - (a) changing or adding any condition; or
  - (b) reducing the area of land comprised in the licence; or
  - (c) removing a mineral or category of minerals from the minerals or category of minerals to which the licence relates.
- (4) Before varying a licence, the Minister, by notice in writing served on the licensee, is to notify the licensee of –
  - (a) the intent to vary the licence; and
  - (b) the nature of the variation; and
  - (c) the right of the licensee to make submissions in relation to the matter within a period specified in the notice.
- (5) A licensee may appeal to the Mining Tribunal against the Minister's decision to vary the licence within 28 days after the date of the decision.
- (6) The variation of the licence takes effect –
  - (a) if an appeal is not made under subsection (5) , 28 days after service of a notice under subsection (4) ; or
  - (b) if an appeal is made under subsection (5) and the Mining Tribunal makes an order affirming the decision, 10 days after the date of the order.
- (7) Subject to subsection (8) , an area of land which was not comprised in a licence because of the operation of section 21 (3) is to be comprised in the licence when –
  - (a) the area ceases to be comprised in a lease; or
  - (b) the application for a mining lease is refused or withdrawn.
- (8) An area of land must not be comprised in a licence under subsection (7) so as the total area of land exceeds the area specified in section 21 in respect of the relevant category of minerals.

#### **32. Application for transfer of exploration licence**

- (1) A licensee may apply to the Minister for approval to transfer a licence.
- (2) An application is to be –

- (a) in an approved form; and
  - (b) accompanied by the executed instrument of transfer; and
  - (c) accompanied by the prescribed fee; and
  - (d) lodged with the Registrar within 28 days after the transfer is executed.
- (3) The Registrar may extend the period referred to in subsection (2) (d) if satisfied that it is reasonable to do so.
- (4) The Registrar, by notice in writing, is to notify of an application lodged under this section in relation to a licence any person who has lodged a caveat under Part 10 in relation to the licence.
- (5) A notice under subsection (4) is to be sent by certified mail within 14 days after the application is lodged.
- (6) A person who has lodged a caveat under Part 10 in relation to a licence may, within 14 days after receipt of a notice under subsection (5) in relation to the licence, object to the Mining Tribunal against an application for approval to transfer the licence.

### **33. Approval of transfer of exploration licence**

- (1) The Minister may –
- (a) approve the application for the transfer of a licence; or
  - (ab) refuse to approve the application until conditions specified by the Minister are satisfied; or
  - (b) refuse to approve the application.
- (2) The Minister, by notice in writing, must notify the applicant of –
- (a) the approval of the application; or
  - (ab) the conditions, if any, that must be satisfied before the Minister will approve the transfer; or
  - (b) the refusal to approve the application and the reasons for the refusal.
- (3) A transfer –
- (a) is of no effect unless approved by the Minister; and
  - (b) takes effect, if approved, on the date of the approval.

### **34. Revocation of exploration licence**

- (1) The Minister may revoke a licence or part of a licence if –
- (a) the licensee fails to comply with, or contravenes –
    - (i) any provision of this Act; or
    - (ii) any condition of the licence; or
  - (b) satisfied that any area of land comprised in the licence is required for any public purpose.
- (2) Before revoking a licence or part of a licence under subsection (1) (a) , the Minister –
- (a) by notice in writing served on the licensee, is to notify the licensee of the intention to revoke the licence or part of the licence; and
  - (b) is to give the licensee an opportunity to make submissions in relation to the matter.
- (3) If the Minister revokes a licence or part of a licence, the Minister, by notice in writing, is to notify the licensee.
- (4) If the Minister revokes a licence or part of a licence under subsection (1) (b) , the licensee is entitled to compensation under Part 8 .
- (5) The Minister, by notice published in the *Gazette*, may notify the revocation of a licence or part of a licence.

(6) A licensee may appeal to the Mining Tribunal against the Minister's decision to revoke the licence within 28 days after the date of the decision.

(7) The revocation of a licence or part of a licence takes effect –

(a) if an appeal is not made under subsection (6) , 28 days after the licensee is notified under subsection (3) or a notice is published under subsection (5) , whichever is earlier; or

(b) if an appeal is made under subsection (6) and the Mining Tribunal makes an order affirming the decision, 10 days after the date of the order.

### **35. Surrender of exploration licence**

(1) A licensee may apply to the Director for approval to surrender a licence or part of a licence.

(2) An application for approval to surrender a licence or part of a licence is to be –

(a) in an approved form; and

(b) accompanied by the licence; and

(c) accompanied by the prescribed fee; and

(d) lodged with the Registrar.

(3) The Director may –

(a) approve the application, with or without any conditions; or

(b) refuse to approve the application.

(4) The Director, by notice in writing, is to notify the applicant of –

(a) the approval of the application; or

(b) the refusal to approve the application and the reasons for that refusal.

(5) If the Director approves an application on conditions, the Director, by notice in writing, is to notify the applicant when the Director is satisfied that all the conditions have been fulfilled.

(6) If the Director approves an application, the licence, or the part of the licence, to which the application relates –

(a) is, if the application is approved without conditions, surrendered on the date on which the Director gives to the applicant notice under subsection (4) of the approval; or

(b) is, if the application is approved with conditions, surrendered on the date on which the Director gives to the applicant notice under subsection (5) that the Director is satisfied that all the conditions have been fulfilled.

### **36. Application to consolidate exploration licences**

(1) A licensee may apply to the Director to consolidate 2 or more licences held by the licensee in respect of adjoining lands.

(2) An application for the consolidation of licences is to be –

(a) in an approved form; and

(b) accompanied by the licences to be consolidated; and

(c) accompanied by the prescribed fee; and

(d) lodged with the Registrar.

(3) The Director may –

(a) approve the application, with or without any conditions; or

(b) refuse to approve the application.

(4) The Director, by notice in writing, is to notify the applicant of –

(a) the approval of the application; or

(b) the refusal to approve the application and the reasons for that refusal.

(5) The area of land comprised in a consolidated licence must not exceed the area specified in section 21 (1) in respect of the relevant category of mineral.

**37. Term of consolidated exploration licence**

(1) Subject to subsection (2) , a consolidated licence is in force for a period of 5 years from the date on which the application for the earliest licence was granted.

(2) The Director may determine –

(a) the term of a consolidated licence; and

(b) the commencement day of the licence.

## **PART 2A - Special Exploration Licences**

### ***Division 1 - Applications***

#### **38. Application for special exploration licence**

- (1) A person may apply to the Minister for a special exploration licence to explore for minerals in a specified region.
- (2) An application is to –
  - (a) be in an approved form; and
  - (b) specify the minerals, or category of minerals, in respect of which it is made; and
  - (c) be accompanied by a statement specifying a description of the area of land in respect of which the licence is sought; and
  - (d) be accompanied by a fee determined by the Minister; and
  - (e) be accompanied by a statement specifying the likely impact on the environment of activities under the licence; and
  - (f) contain any other details the Director requires; and
  - (g) be lodged with the Registrar.
- (3) The Registrar or the Director or both may require an applicant to provide further information.
- (4) A person may not apply for a licence in relation to an area of land –
  - (a) to which a notice published under section 161E relates; or
  - (b) if the person holds or held a special exploration licence in relation to the area of land for the same mineral, or category of minerals, as the mineral, or category of minerals, to which the application relates.

#### **38A. Priority of applications**

- (1) If more than one application is received for a licence in respect of all or part of the same land, the order of priority is as follows:
  - (a) for applications received on different days, an application received on an earlier day has priority over an application received on a later day;
  - (b) for applications received on the same day, the order of priority is as determined by the Director according to the relative merits of the applications;
  - (c) for applications received on the same day which are determined by the Director to be of equal merit, the order of priority is as determined by a ballot conducted in an approved manner.
- (2) An application that has priority over any other application is to be determined without reference to any other application.
- (3) The Director is to notify an applicant –
  - (a) that the application of the applicant has priority over any other application; or
  - (b) that the application of another applicant has priority; or
  - (c) if the priority of an application of the applicant has altered because another application is withdrawn or refused or has lapsed under section 38B .
- (4) The Registrar is to reject any application received later than 3 months after receipt of another application determined to have priority.

### **38B. Pending application**

- (1) An application for a licence is pending from the day on which it is lodged until whichever of the following happens first:
  - (a) the application is granted;
  - (b) the application is refused;
  - (c) the application lapses;
  - (d) the application is withdrawn.
- (2) An application for a licence lapses –
  - (a) 12 months after it is lodged, if it is not determined or withdrawn by that time; or
  - (b) at a later date fixed by the Director, and notified to the applicant, if –
    - (i) the failure to determine the application was not caused by a default of the applicant; or
    - (ii) there is, in the opinion of the Director, a sufficient reason for fixing a later date.

### **39. Recommendation of application for special exploration licence**

- (1) The Director is to consider an application for a licence.
- (2) If the Director intends to recommend to the Minister that the application be granted, the Director is to –
  - (a) notify that intention by notice in writing –
    - (i) to the applicant; and
    - (ii) as required by section 29 of the Native Title Act 1993 of the Commonwealth; and
  - (b) publish a notice of that intention in a newspaper circulating in the relevant area.
- (3) A notice under subsection (2) (b) is to specify –
  - (a) the name of the applicant; and
  - (b) the area of land in respect of which the application is made; and
  - (c) any other prescribed matter.
- (4) The Director may only recommend that the Minister grant an application for a licence if satisfied that the applicant –
  - (a) intends to do work in the specified region; and
  - (b) intends to comply with this Act; and
  - (c) has an appropriate program of work; and
  - (d) is likely to have sufficient financial and technical resources to carry out the proposed work; and
  - (e) has provided sufficient information relating to the likely impact on the environment of activities under the licence; and
  - (f) has provided a security deposit.

### **40. Objection to special exploration licence**

- (1) Any person with an interest or estate in land within the area specified in a notice published under section 39, or who is the holder of a mineral tenement in respect of such land, may object to the granting of the application for a licence in respect of that land.
- (2) An objection is to –
  - (a) be in writing; and
  - (b) specify the grounds; and

(c) be accompanied by the prescribed fee; and

(d) be lodged with the Registrar within 28 days after the date of the publication of the notice under section 39 .

(3) An objection is to be heard and determined by the Mining Tribunal.

#### **40A. Alteration of application, &c., before notice published**

(1) A person who has applied for a licence may, by notice to the Director, alter –

(a) the application for the licence; or

(b) the statement accompanying, in accordance with section 38(2)(c) or (e) , the application for the licence.

(2) The alterations to an application for a licence that may be specified in a notice under subsection (1) include, but are not limited to including, alterations of –

(a) the minerals, or the category of minerals, in respect of which the application is made; and

(b) the area of land in respect of which the licence is sought.

(3) A notice may only be given to the Director under subsection (1) before notice of the application is published under section 39(2)(b) (including publication of such a notice in accordance with section 41(2)(a) ).

(4) An application altered under subsection (1) is, as so altered, to be taken to be the application as lodged under section 38 .

#### **40B. Alteration of application after objection**

(1) If the Mining Tribunal upholds an objection relating to a part of the land in respect of which an application for a licence is made, it may allow the applicant to alter the application by excluding that part.

(2) An application for a licence altered under subsection (1) is, as so altered, to be taken to be the application as lodged under section 38 .

#### **41. Granting application for special exploration licence**

(1) After considering an application for a licence and any recommendation of the Director and subject to any decision of the Mining Tribunal, the Minister may–

(a) grant the application; or

(b) refuse to grant the application.

(2) If the Minister intends to grant an application for a licence contrary to the recommendation of the Director –

(a) the Director is to notify that intention in accordance with section 39 (2) and (3) ; and

(b) a person with an interest or estate in the land in respect of which the licence is sought is entitled to object in accordance with section 40 .

(3) The Minister, by notice in writing, must notify the applicant of –

(a) the grant of the application; or

(b) the refusal to grant the application and the reasons for the refusal.

#### **41A. When Minister may grant application**

(1) The Minister may only grant an application for a licence if the Minister is satisfied that the applicant –

(a) has –

(i) sufficient technical and financial resources; or

(ii) obtained an agreement, contract, or other arrangement, with another person to ensure the provision of sufficient technical and financial resources –

to enable the carrying out of the program of work in relation to the application for the first 2 years after the application for the licence is granted; and

(b) is likely to have sufficient technical and financial resources to enable the carrying out of the program of work for the remainder of the period of the licence after the first 2 years after the application for the licence is granted; and

(c) has provided a copy of the applicant's current public liability insurance policy.

(2) The Minister may refuse to grant an application for a licence by an applicant if the Minister is of the opinion that the application ought to be refused because –

(a) of significant, or repeated, breaches of this Act or the regulations by –

(i) the applicant; or

(ii) a person, authorised or employed by the applicant, who committed the breach, or breaches, in relation to activities under a licence of any kind, or a lease, of the applicant; or

(b) the applicant has failed to comply with the conditions subject to which an application under this Act by the applicant for a licence of any kind, or a lease, was granted; or

(c) the applicant has failed to substantially carry out as much of a work program, development plan, field development plan, or mining plan, in relation to a licence of any kind, or a lease, of the applicant, as ought reasonably be expected to have been carried out at the time the application is made.

#### **42. Conditions of special exploration licence**

(1) The Minister may grant an application for a licence subject to any conditions the Minister considers appropriate.

(1A) Without limiting the generality of subsection (1), the conditions that may be imposed include –

(a) a condition as to the amount of money that is to be expended –

(i) during the period in which the licence is in force; or

(ii) during one or more periods, in which the licence is in force, specified in the licence –

or both, for the purposes of, or in relation to, exploration under the licence; and

(b) a condition requiring the completion of work programs in relation to the licence –

(i) during the period in which the licence is in force; or

(ii) during one or more periods, in which the licence is in force, specified in the licence –

or both, for the purposes of, or in relation to, exploration under the licence.

(2) If a licence is held by 2 or more persons, those persons are jointly and severally liable for complying with the conditions of the licence.

(3) The Minister may vary the conditions of the licence by rescinding, adding, substituting or amending a condition.

#### **42A. Restriction on exploration on private land**

The holder of a licence, a person authorised by the holder of a licence, and a person acting under a contract of service, or a contract for services, with the holder of a licence, must not explore on private land within 100 metres of –

(a) the surface of any natural lake, artificial lake, dam, reservoir, water-producing well, or artificial pond, part or all of which is on the land; or

(b) any dwelling, or substantial building, on the land –

unless the holder of the licence has the consent of the owner and of the occupier of the land to do so.

Penalty: Fine not exceeding 100 penalty units.

## ***Division 2 - Special exploration licences***

### **42B. Special exploration licence**

- (1) On granting an application for a licence, the Minister is to issue a special exploration licence.
- (2) A licence is to –
  - (a) be in an approved form; and
  - (b) include the following particulars:
    - (i) a description of the area of land comprised in the licence;
    - (ii) the total area of that land;
    - (iii) the minerals, or category of minerals, to which the licence relates;
    - (iv) the terms and conditions to which it is subject;
    - (v) the period for which it is in force.
- (3) A licensee is to pay rent to the Crown in respect of the land to which the licence relates at a prescribed rate and in a prescribed manner.

### **43. Authority of special exploration licence**

A licence authorises the holder of the licence, a person authorised by the holder of the licence, and a person acting under a contract of service, or a contract for services, with the holder of the licence, to explore, in accordance with the conditions of the licence, in the area of land comprised in the licence, for minerals, or minerals within the category of minerals, specified in the licence.

### **43A. Duties under special exploration licence**

A licensee must –

- (a) carry out any exploration efficiently and effectively; and
- (b) carry out any exploration and rehabilitation of land consistent with the standards specified in any relevant Code of practice.

### **43B. Annual report**

- (1) A holder of a licence is, in each year, to submit to the Director, by –
  - (a) the anniversary, in that year, of the day on which the application for the licence was granted; or
  - (b) a day, after that anniversary, specified under subsection (2) in relation to the licence –a report (***anannual report***) in relation to the 12-month period immediately before that anniversary.
- (2) The Director may, by notice in writing to a holder of a licence, specify a day for the purposes of subsection (1)(b) in relation to the licence.
- (3) The annual report is to –
  - (a) be in accordance with the reporting guidelines; and
  - (b) specify the amounts of money expended in respect of any exploration carried out during the 12-month period to which the report relates; and
  - (c) contain a summary of the matters specified in section 187(2); and
  - (d) give details of any work that is proposed to be undertaken under the licence in the future; and
  - (e) contain any other matter relating to the licence that is specified in the reporting guidelines, or by the Director by notice in writing to the holder of the licence, as being required to be contained in the report.

#### **43BA. Final report**

- (1) Within 3 months after the expiration, surrender or revocation of a licence, the licensee must submit to the Director a report (a *final report*) in relation to the period of the licence.
- (2) The final report is to –
  - (a) be in accordance with the reporting guidelines; and
  - (b) contain any other matter relating to the licence that is specified in the reporting guidelines, or by the Director by notice in writing to the licensee, as being required to be contained in the report.

#### **43C. Returns**

- (1) A licensee, if requested by the Director by notice in writing, is to submit to the Director, within 28 days after the end of a quarter, a return (a *quarterly return*) in relation to the quarter.
- (2) A quarterly return is to be in the approved form, if any.
- (3) A quarterly return in relation to a licence is to –
  - (a) specify the expenditure, during the quarter to which the return relates, on each category of exploration, under the licence, that is listed in the approved form, if any; and
  - (b) specify the progress of the exploration program under the licence during the quarter; and
  - (c) specify any rehabilitation, of the area of land comprised in the licence, that was undertaken during the quarter; and
  - (d) contain any other information that is specified in the form, in the reporting guidelines, or by the Director by notice in writing to the licensee, as being required to be contained in the return.
- (4) A licensee, by the anniversary, in each year, of the date on which the application for the licence is granted, is to submit to the Director a return (an *annual return*) in relation to the 12-month period before that anniversary.
- (5) An annual return is to be in the approved form, if any.
- (6) The Director, by notice to a licensee, may require the licensee to submit to the Director, by the date or dates specified in the notice, the information specified in the notice as required to be submitted by the licensee.
- (7) A licensee must submit to the Director, by the date or dates specified in the notice to the licensee under subsection (6), the information specified in the notice as required to be submitted by the licensee.

Penalty: Fine not exceeding 50 penalty units.

- (8) The information specified in an approved form, or a notice under this section, as required to be submitted by the licensee may include an audited report.

#### **44. Term of special exploration licence**

- (1) A licence is, unless revoked or unless the term of the licence is extended under section 44A, in force for a period of 5 years from the date on which the application for the licence is granted.
- (2) The Minister, under section 44A, may extend the term of the licence for any period, as long as the total term of the licence from the date on which the application for the licence is granted (including any period, after the licence expires, for which the licence remains in force under section 44A(7)) does not exceed 10 years.

#### **44A. Extension of term of licence**

- (1) A person may apply to the Minister for an extension of the term of a licence.
- (2) An application is to be –
  - (a) in an approved form; and
  - (b) accompanied by the prescribed fee; and

(c) lodged with the Registrar before the licence ceases to be in force.

(3) The Minister may –

(a) subject to section 44(2), grant the application for any further period the Minister determines and with or without conditions; or

(b) refuse to grant the application.

(4) The Minister must grant the application if the Minister is satisfied that –

(a) the exploration to be carried out during the term of the licence has been completed; and

(b) the licensee has submitted any report or return as required; and

(c) the licensee has submitted a suitable program of work for the period of extension; and

(d) further detailed exploration is justified because substantiated results indicate the probability of a discovery leading to profitable mining operations.

(5) The Minister, by notice in writing, must notify the applicant of –

(a) the grant of the application; or

(b) the refusal to grant the application and the reasons for the refusal.

(6) A licensee may, within 28 days after receipt of a notice under subsection (5)(b) in relation to an application, appeal to the Mining Tribunal against the Minister's refusal to grant the application.

(7) Subject to section 44(2), a licence to which an application under subsection (1) relates remains in force until –

(a) the Minister makes a decision under subsection (3); or

(b) if an appeal is made under subsection (6), the Mining Tribunal makes an order in relation to the appeal; or

(c) if the date on which the licence would, if the application were not granted, expire is a date later than the date on which a decision or order referred to in paragraph (a) or (b) occurs – the date on which the licence would expire.

#### **45. Area of land comprised in special exploration licence**

(1) The area of land comprised in a special exploration licence in respect of a mineral or category of minerals is to be the area determined by the Minister and specified in the licence, which area may exceed the area specified in section 21(1) in respect of the category of minerals to which the mineral belongs, or the category of minerals, respectively.

(1A) An area of land comprised in a licence in respect of a mineral must not include an area which –

(a) is the subject of a licence of any kind in respect of the same mineral or category of minerals; or

(b) is the subject of a lease or an application for a lease; or

(c) is the subject of an application for a retention licence in respect of the same mineral or category of minerals.

(1B) Land comprised in a licence may be either or both of the following:

(a) the same size as, or smaller than, the area of land in respect of which the licence was sought;

(b) different in shape from the area of land in respect of which the licence was sought.

(2) Any area of land previously comprised in a special exploration licence and included in an exploration licence ceases to be comprised in the special exploration licence.

#### **45A. Exploration without licence**

A person must not, on an area of land comprised in a licence, explore for minerals to which the licence relates, unless the person –

- (a) is the holder of the licence; or
- (b) is authorised, by the holder of the licence to explore for the minerals; or
- (c) is exploring for the minerals under a contract of service, or a contract for services, with the holder of the licence; or
- (d) has obtained the written consent of the holder of the licence.

Penalty: Fine not exceeding 100 penalty units.

### ***Division 3 - Dealings with special exploration licences***

#### **45B. Variation of special exploration licence**

- (1) The Minister, by notice in writing, with the approval of the licensee, may vary the licence by adding to, or reducing, the area of land comprised in the licence.
- (2) On the application of a licensee, the Minister, by notice in writing, may vary the licence by adding to, or reducing, the area of land comprised in the licence.
- (3) If a licensee fails to comply with, or contravenes, a provision of this Act or a condition of the licence, the Minister may vary the licence by –
  - (a) changing or adding any condition; or
  - (b) reducing the area of land comprised in the licence.
- (4) Before varying a licence, the Minister, by notice in writing served on the licensee, is to notify the licensee of –
  - (a) the intent to vary the licence; and
  - (b) the nature of the variation; and
  - (c) the right of the licensee to make submissions in relation to the matter within a period specified in the notice.
- (5) A licensee may, within 28 days after the date of the Minister's decision to vary the licence, appeal to the Mining Tribunal against the decision.
- (6) The variation of the licence takes effect –
  - (a) if an appeal is not made under subsection (5) , 28 days after service of a notice under subsection (4) ; or
  - (b) if an appeal is made under subsection (5) and the Mining Tribunal makes an order affirming the decision, 10 days after the date of the order.

#### **45C. Application for transfer of special exploration licence**

- (1) A licensee may apply to the Minister for approval to transfer a licence.
- (2) An application is to be –
  - (a) in an approved form; and
  - (b) accompanied by the executed instrument of transfer; and
  - (c) accompanied by the prescribed fee; and
  - (d) lodged with the Registrar within 28 days after the transfer is executed.
- (3) The Registrar may extend the period referred to in subsection (2)(d) if the Registrar is satisfied that it is reasonable to do so.

(4) The Registrar, by notice in writing, is to notify of an application lodged under this section in relation to a licence any person who has lodged a caveat under Part 10 in relation to the licence.

(5) A notice under subsection (4) is to be sent by certified mail within 14 days after the application is lodged.

(6) A person who has lodged a caveat under Part 10 in relation to a licence may, within 14 days after receipt of the notice under subsection (5) in relation to the licence, object to the Mining Tribunal against an application for approval to transfer the licence.

#### **45D. Approval of transfer of special exploration licence**

(1) The Minister may –

- (a) approve the application for the transfer of a licence; or
- (b) refuse to approve the application until conditions specified by the Minister are satisfied; or
- (c) refuse to approve the application.

(2) The Minister, by notice in writing, must notify the applicant of –

- (a) the approval of the application; or
- (b) the conditions, if any, that must be satisfied before the Minister will approve the transfer; or
- (c) the refusal to approve the application and the reasons for the refusal.

(3) A transfer –

- (a) is of no effect unless approved by the Minister; and
- (b) takes effect, if approved, on the date of the approval.

#### **46. Revocation of special exploration licence**

(1) The Minister may revoke a licence or part of a licence if–

- (a) the licensee fails to comply with, or contravenes–
  - (i) any provision of this Act; or
  - (ii) any condition of the licence; or
- (b) satisfied that any area of land comprised in the licence is required for any public purpose.

(2) Before revoking a licence or part of a licence under subsection (1) (a) , the Minister–

- (a) by notice in writing served on the licensee, is to notify the licensee of the intention to revoke the licence or part of the licence; and
- (b) is to give the licensee an opportunity to make submissions in relation to the matter.

(3) If the Minister revokes a licence or part of a licence, the Minister, by notice in writing, is to notify the licensee.

(4) If the Minister revokes a licence or part of a licence under subsection (1) (b) , the licensee is entitled to compensation under Part 8 .

(5) The Minister, by notice published in the *Gazette*, may notify the revocation of a licence or part of a licence.

(6) A licensee may appeal to the Mining Tribunal against the Minister's decision to revoke the licence within 28 days after the date of the decision.

(7) The revocation of a licence or part of a licence takes effect –

- (a) if an appeal is not made under subsection (6) , 28 days after the licensee is notified under subsection (3) or a notice is published under subsection (5) , whichever is earlier; or
- (b) if an appeal is made under subsection (6) and the Mining Tribunal makes an order affirming the decision, 10 days after the date of the order.

#### **46A. Surrender of special exploration licence**

- (1) A licensee may apply to the Director for approval to surrender a licence or part of a licence.
- (2) An application for approval to surrender a licence or part of a licence is to be –
  - (a) in an approved form; and
  - (b) accompanied by the licence; and
  - (c) accompanied by the prescribed fee; and
  - (d) lodged with the Registrar.
- (3) The Director may –
  - (a) approve the application, with or without any conditions; or
  - (b) refuse to approve the application.
- (4) The Director, by notice in writing, is to notify the applicant of –
  - (a) the approval of the application; or
  - (b) the refusal to approve the application and the reasons for that refusal.
- (5) If the Director approves an application on conditions, the Director, by notice in writing, is to notify the applicant when the Director is satisfied that all the conditions have been fulfilled.
- (6) If the Director approves an application, the licence, or the part of the licence, to which the application relates –
  - (a) is, if the application is approved without conditions, surrendered on the date on which the Director gives to the applicant notice under subsection (4) of the approval; or
  - (b) is, if the application is approved with conditions, surrendered on the date on which the Director gives to the applicant notice under subsection (5) that the Director is satisfied that all the conditions have been fulfilled.

## **PART 3 - Retention Licences**

### ***Division 1 - Applications***

#### **47. Application for retention licence**

- (1) A person may apply to the Minister for a retention licence.
- (1A) A person may only apply under subsection (1) for a retention licence if –
  - (a) the licence is to relate to both –
    - (i) a mineral, or a category of minerals, specified in an exploration licence or lease; and
    - (ii) any area of land comprised in that exploration licence or lease; and
  - (b) the person is the holder of the exploration licence or lease or is a person to whom a consent under section 48(1) in relation to that licence or lease has been given by the holder of the licence or lease.
- (2) An application is to –
  - (a) be in an approved form; and
  - (b) be accompanied by the prescribed fee; and
  - (c) contain any other prescribed details; and
  - (d) be lodged with the Registrar.
- (3) The Registrar or Director or both may require an applicant to provide further information.

#### **48. Holder of exploration licence or lease may permit other person to apply for retention licence**

- (1) The holder of an exploration licence or a lease may, by notice in writing to another person, consent to the other person applying, either alone or in conjunction with the holder, for a retention licence that is to relate to both –
  - (a) a mineral, or a category of minerals, specified in an exploration licence or lease; and
  - (b) any area of land comprised in that exploration licence or lease.
- (2) A person to whom a notice of consent is given under subsection (1) is to provide the Registrar with a copy of that notice within 14 days of the date of the notice.

#### **49. Transfer of application**

- (1) A person who lodges an application for a licence may transfer the application to another person subject to any prescribed conditions and on payment of the prescribed fee.
- (2) On the transfer of an application for a licence, the transferee becomes the applicant for the licence.

#### **49A. Pending application**

- (1) An application for a licence is pending from the day on which it is lodged until whichever of the following happens first:
  - (a) the application is granted;
  - (b) the application is refused;
  - (c) the application lapses;
  - (d) the application is withdrawn.
- (2) An application for a licence lapses –
  - (a) 12 months after it is lodged, if it is not determined or withdrawn by that time; or

(b) at a later date fixed, and notified to the applicant, by the Director, if –

- (i) the failure to determine the application was not caused by a default of the applicant; or
- (ii) there is, in the opinion of the Director, a sufficient reason for fixing a later date.

#### **50. Recommendation of application for retention licence**

- (1) The Director is to consider an application for a licence.
- (2) If the Director intends to recommend to the Minister that the application be granted, the Director is to –
  - (a) notify that intention by notice in writing –
    - (i) to the applicant; and
    - (ii) as required under section 29 of the Native Title Act 1993 of the Commonwealth; and
  - (b) publish a notice of that intention in a newspaper circulating in the relevant area.
- (3) A notice under subsection (2) (b) is to specify –
  - (a) the name of the applicant; and
  - (b) the area of land in respect of which the application is made; and
  - (c) any other prescribed matter.

#### **51. Objection to retention licence**

- (1) Any person with an interest or estate in land within the area specified in a notice published under section 50 (2) (b), or who is the holder of a mineral tenement in respect of such land, may object to the granting of the application for a licence in respect of that land.
- (2) An objection is to –
  - (a) be in writing; and
  - (b) specify the grounds; and
  - (c) be accompanied by the prescribed fee; and
  - (d) be lodged with the Registrar within 28 days after the date of the publication of the notice under section 50 (2) (b).
- (3) An objection is to be heard and determined by the Mining Tribunal.

#### **52. Alteration of application after objection**

- (1) If the Mining Tribunal upholds an objection relating to a part of the land in respect of which an application for a licence is made, it may allow the applicant to alter the application by excluding that part.
- (2) An application for a licence altered under subsection (1) is, as so altered, to be taken to be the application as lodged under section 47.

#### **53. Granting application for retention licence**

- (1) After considering an application for a licence and any recommendation of the Director and subject to any decision of the Mining Tribunal, the Minister may –
  - (a) grant the application; or
  - (b) refuse to grant the application.
- (2) The Minister may only grant an application for a licence if satisfied that –
  - (a) the land comprised in the licence is likely to be able to be effectively and efficiently mined for the minerals, or the category of minerals, to which the licence is to relate; and
  - (b) there is a sufficient quantity of minerals to justify mining; and

- (c) the applicant is justified for economic or other reasons not to proceed to mine; and
  - (ca) the applicant has provided a copy of the applicant's current public liability insurance policy; and
  - (d) the applicant has provided a security deposit.
- (3) If the Minister intends to grant an application for a licence contrary to the recommendation of the Director –
- (a) the Director is to notify that intention in accordance with section 50 (2) and (3) ; and
  - (b) a person with an interest or estate in the land in respect of which the licence is sought is entitled to object in accordance with section 51 .
- (4) The Minister, by notice in writing, must notify the applicant of –
- (a) the grant of the application; or
  - (b) the refusal to grant the application and the reasons for the refusal.

#### **54. Restriction on exploration on private land**

The holder of a licence, a person authorised by the holder of a licence, and a person acting under a contract of service, or a contract for services, with the holder of a licence, must not explore on private land within 100 metres of –

- (a) the surface of any natural lake, artificial lake, dam, reservoir, water-producing well, or artificial pond, part or all of which is on the land; or
- (b) any dwelling, or substantial building, on the land –

unless the holder of the licence has the consent of the owner and of the occupier of the land to do so.

Penalty: Fine not exceeding 100 penalty units.

#### **55. Conditions of retention licence**

- (1) The Minister may grant an application for a licence subject to any conditions the Minister considers appropriate.
- (2) If a licence is held by 2 or more persons, those persons are jointly and severally liable for complying with any conditions of the licence.
- (3) The Minister may vary the conditions of the licence by rescinding, adding, substituting or amending a condition.
- (4) Before varying the conditions of a licence, the Minister, by notice in writing served on the licensee, is to notify the licensee of–
  - (a) the intent to vary the licence conditions; and
  - (b) the nature of the variation; and
  - (c) the right of the licensee to make submissions in relation to the matter.
- (5) A licensee may appeal to the Mining Tribunal against the Minister's decision to vary the conditions of the licence within 28 days after the date of the decision.
- (6) The variation of the conditions of the licence takes effect–
  - (a) if an appeal is not made under subsection (5) , 28 days after service of a notice under subsection (4) ; or
  - (b) if an appeal is made under subsection (5) and the Mining Tribunal makes an order affirming the decision, 10 days after the date of the order.

### ***Division 2 - Retention licences***

#### **56. Retention licence**

- (1) On granting an application for a licence, the Minister is to issue a retention licence.
- (2) A licence is to –
  - (a) be in an approved form; and
  - (b) include the following particulars:
    - (i) a description of the area of land comprised in the licence;
    - (ii) the total area of that land;
    - (iii) the minerals, or category of minerals, to which the licence relates;
    - (iv) the terms and conditions to which it is subject;
    - (v) the period for which it is in force.
- (3) A licensee is to pay rent to the Crown in respect of the land comprised in the licence at a prescribed rate and in a prescribed manner.

#### **57. Area of land comprised in retention licence**

- (1) The area of land comprised in a licence must not exceed –
  - (a) for a licence relating to Category 1, 3 or 5 minerals, 10 square kilometres; or
  - (b) for a licence relating to Category 2, 4 or 6 minerals, 50 square kilometres.
- (2) A licence of any kind or a lease is not affected by an application under section 47 for a licence.
- (3) On the granting of an application under section 47 for a licence in relation to a mineral, or a category of mineral, an area of land to which the application relates that is subject to an exploration licence in relation to the same mineral, or the same category of minerals, ceases to be subject to the exploration licence.
- (4) An area of land comprised in a licence in respect of a mineral or a category of minerals –
  - (a) must not include an area which is the subject of a lease in respect of the mineral or category of minerals; and
  - (b) must not include an area which is the subject of an application for a lease.
- (5) Land comprised in a licence may be either or both of the following:
  - (a) the same size as, or smaller than, the area of land in respect of which the licence was sought;
  - (b) different in shape from the area of land in respect of which the licence was sought.

#### **58. Authority of retention licence**

- (1) A licence authorises the holder of the licence, a person authorised by the holder of the licence, and a person acting under a contract of service, or a contract for services, with the holder of the licence –
  - (a) to carry out, in accordance with the conditions of the licence, any of the following which is necessary to evaluate the potential for mining:
    - (i) geological, geophysical and geochemical exploration programs;
    - (ii) mining feasibility studies;
    - (iii) metallurgical testing;
    - (iv) environmental studies;
    - (v) marketing studies;
    - (vi) engineering and design studies; and
  - (b) to, in accordance with the conditions of the licence, enter on, and pass over, any Crown land or private land for those purposes.

(2) A person may only enter on, or pass over, private land by giving written notice in an approved form to the owner or occupier of the land 14 days or any shorter period the owner or occupier allows before doing so.

(3) A person must not hinder or obstruct a licensee from carrying out any activity under the licence.

Penalty: Fine not exceeding 100 penalty units.

(4) A person must not sell any mineral recovered whilst carrying out authorised activities without the approval of the Director.

Penalty: Fine not exceeding 500 penalty units or revocation of the licence, or both.

#### **59. Term of retention licence**

(1) A licence, unless revoked earlier or extended under subsection (2), is in force for a period, not exceeding 5 years, as the Minister determines.

(2) The Minister may extend the term of a licence for any period or periods each not exceeding 5 years.

#### **60. Exemption from conditions of retention licence**

(1) A licensee may apply to the Minister for an exemption from any condition of a licence.

(2) An application is to be –

(a) in an approved form; and

(b) accompanied by the prescribed fee; and

(c) lodged with the Registrar.

(3) The Minister may –

(a) grant the application; or

(b) refuse to grant the application.

(4) If the Minister grants the application, the Minister is to issue the licensee with a certificate of exemption.

(5) A certificate of exemption –

(a) remains in force for the period specified in the certificate; and

(b) is subject to any conditions specified in the certificate.

#### **60A. Annual report**

(1) A holder of a licence is, in each year, to submit to the Director, by –

(a) the anniversary, in that year, of the day on which the application for the licence was granted; or

(b) a day, after that anniversary, specified under subsection (2) in relation to the licence –

a report (an **annual report**) in relation to the 12-month period immediately before that anniversary.

(2) The Director may, by notice in writing to a holder of a licence, specify a day for the purposes of subsection (1)(b) in relation to the licence.

(3) The annual report is to –

(a) be in accordance with the reporting guidelines; and

(b) specify the amounts of money expended in respect of any exploration carried out during the 12-month period to which the report relates; and

(c) contain a summary of the matters specified in section 187(2); and

(d) give details of any work that is proposed to be undertaken under the licence in the future; and

(e) contain any other matter relating to the licence that is specified in the reporting guidelines, or by the Director by notice in writing to the holder of the licence, as being required to be contained in the report.

#### **60AAB. Final report**

- (1) Within 3 months after the expiration, surrender or revocation of a licence, the licensee must submit to the Director a report (a *final report*) in relation to the period of the licence.
- (2) The final report is to –
  - (a) be in accordance with the reporting guidelines; and
  - (b) contain any other matter relating to the licence that is specified in the reporting guidelines, or by the Director by notice in writing to the licensee, as being required to be contained in the report.

#### **60AB. Returns**

- (1) A licensee, if requested by the Director by notice in writing, is to submit to the Director, within 28 days after the end of a quarter, a return (a *quarterly return*) in relation to the quarter.
- (2) A quarterly return is to be in the approved form, if any.
- (3) A quarterly return in relation to a licence is to –
  - (a) specify the expenditure, during the quarter to which the return relates, on each category of exploration, under the licence, that is listed in the approved form, if any; and
  - (b) specify the progress of the exploration program under the licence during the quarter; and
  - (c) specify any rehabilitation, of the area of land comprised in the licence, that was undertaken during the quarter; and
  - (d) contain any other statistical information that is specified in the form, in the reporting guidelines, or by the Director by notice in writing to the licensee, as being required to be contained in the return.
- (4) A licensee, by the anniversary, in each year, of the date on which the application for the licence is granted, is to submit to the Director a return (an *annual return*) in relation to the 12-month period before that anniversary.
- (5) An annual return is to be in the approved form, if any.
- (6) The Director may, by notice to a licensee, require the licensee to submit to the Director, by the date or dates specified in the notice, the information specified in the notice as required to be submitted by the licensee.
- (7) A licensee must submit to the Director, by the date or dates specified in the notice to the licensee under subsection (6), the information specified in the notice as required to be submitted by the licensee.

Penalty: Fine not exceeding 50 penalty units.

- (8) The information specified in an approved form, or a notice under this section, as required to be submitted by the licensee, may include an audited report.

#### **60B. Duties under retention licence**

- (1) A licensee is to carry out any exploration efficiently and effectively.
- (2) A licensee is to carry out any exploration and rehabilitation of land consistently with the standards specified in any relevant Code of practice.

#### **60C. Exploration without licence**

A person must not, on an area of land comprised in a licence, explore for minerals to which the licence relates, unless the person –

- (a) is the holder of the licence; or
- (b) is authorised by the holder of the licence to explore for the minerals; or

(c) is exploring for the minerals under a contract of service, or a contract for services, with the holder of the licence; or

(d) has obtained the written consent of the holder of the licence.

Penalty: Fine not exceeding 100 penalty units.

### ***Division 3 - Dealings with licences***

#### **61. Variation of retention licence**

(1) The Minister, with the approval of the licensee, by notice in writing, may vary the licence by removing a mineral, or a category of minerals, from the licence.

(2) On the application of a licensee, the Minister, by notice in writing, may vary the licence by –

(a) adding to, or reducing, the area of land comprised in the licence; and

(b) adding or removing a mineral, or a category of minerals, from the licence.

(3) If a licensee fails to comply with, or contravenes, a provision of this Act or a condition of the licence, the Minister, by notice in writing, may vary the licence by –

(a) changing or adding any condition; or

(b) reducing the area of land comprised in the licence; or

(c) removing a mineral, or a category of minerals, from the licence.

(4) Before varying a licence, the Minister, by notice in writing served on the licensee, is to notify the licensee of –

(a) the intent to vary the licence; and

(b) the nature of the variation; and

(c) the right of the licensee to make submissions in relation to the matter.

(5) A licensee may appeal to the Mining Tribunal against the Minister's decision to vary the licence within 28 days after the date of the decision.

(6) The variation of the licence takes effect –

(a) if an appeal is not made under subsection (5), 28 days after service of a notice under subsection (4); or

(b) if an appeal is made under subsection (5), and the Mining Tribunal makes an order affirming the decision, 10 days after the date of the order.

#### **62. Application for transfer of retention licence**

(1) A licensee may apply to the Minister for approval to transfer a licence.

(2) An application is to be –

(a) in an approved form; and

(b) accompanied by the duly executed instrument of transfer; and

(c) accompanied by the prescribed fee; and

(d) lodged with the Registrar within 28 days after the transfer is executed.

(3) The Registrar may extend the period referred to in subsection (2) (d) if satisfied that it is reasonable to do so.

(4) The Registrar, by notice in writing, is to notify of an application lodged under this section in relation to a licence any person who has lodged a caveat under Part 10 in relation to the licence.

(5) A notice under subsection (4) is to be sent by certified mail within 14 days after the application is lodged.

(6) A person who has lodged a caveat under Part 10 in relation to a licence may, within 14 days after receipt of a notice under subsection (5) in relation to the licence, object to the Mining Tribunal against an application for approval to transfer the licence.

### **63. Approval of transfer of retention licence**

(1) The Minister may –

(a) approve the application for the transfer of a licence; or

(ab) refuse to approve the application until conditions specified by the Minister are satisfied; or

(b) refuse to approve the application.

(2) The Minister, by notice in writing, must notify the applicant of –

(a) the approval of the application; or

(ab) the conditions, if any, that must be satisfied before the Minister will approve the transfer; or

(b) the refusal to approve the application and the reasons for the refusal.

(3) A transfer –

(a) is of no effect unless approved by the Minister; and

(b) takes effect, if approved, on the date of the approval.

### **64. Extension of term of retention licence**

(1) A licensee may apply to the Minister for an extension of the term of the licence.

(2) An application is to be –

(a) in an approved form; and

(b) accompanied by the prescribed fee; and

(c) lodged with the Registrar before the licence ceases to be in force.

(3) The Minister must –

(a) grant an application for any period the Minister determines and with or without conditions; or

(b) refuse to grant the application.

(4) The Minister, by notice in writing, must notify the applicant of –

(a) the grant of the application; or

(b) the refusal to grant the application and the reasons for the refusal.

(5) A licensee may appeal to the Mining Tribunal against the Minister's refusal to grant the application within 28 days after receipt of a notice under subsection (4)(b).

(6) A licence remains in force until –

(a) the Minister makes a decision under subsection (3) ; or

(b) if an appeal is made under subsection (5) , the Mining Tribunal makes an order in relation to the appeal; or

(c) if the date on which the licence would, if the application were not granted, expire is a date later than the date on which a decision or order referred to in paragraph (a) or (b) occurs, the date on which the licence would expire.

### **65. Term of extended licence**

- (1) A licence extended under section 64 , unless revoked earlier or unless the term of the licence is extended under this section, is in force for a period, not exceeding 5 years, as the Minister determines.
- (2) If an application to extend a licence is granted before the licence ceases to be in force, the period referred to in subsection (1) starts on the day the licence ceases to be in force.
- (3) If an application to extend a licence is not granted before the licence ceases to be in force, the licence –
  - (a) is taken to continue to be in force until the application is granted, refused or withdrawn, whichever occurs first; and
  - (b) if extended, continues in force from the date on which it ceases to be in force until the end of the period referred to in subsection (1) .

#### **66. Revocation of retention licence**

- (1) The Minister may revoke a licence or part of a licence if –
  - (a) the licensee fails to comply with, or contravenes –
    - (i) any provision of this Act; or
    - (ii) any condition of the licence; or
  - (b) satisfied that any area of land comprised in the licence is required for any public purpose.
- (2) Before revoking a licence or part of a licence under subsection (1) (a) , the Minister –
  - (a) by notice in writing served on the licensee, is to notify the licensee of the intention to revoke the licence or part of the licence; and
  - (b) is to give the licensee an opportunity to make submissions in relation to the matter.
- (3) If the Minister revokes a licence or part of a licence, the Minister, by notice in writing, is to notify the licensee.
- (4) If the Minister revokes a licence or part of a licence under subsection (1) (b) , the licensee is entitled to compensation under Part 8 .
- (5) The Minister, by notice published in the *Gazette*, may notify the revocation of a licence or part of a licence.
- (6) A licensee may appeal to the Mining Tribunal against the Minister's decision to revoke the licence within 28 days after the date of the decision.
- (7) The revocation of a licence takes effect –
  - (a) if an appeal is not made under subsection (6) , 28 days after the licensee is notified under subsection (3) or a notice is published under subsection (5) , whichever is earlier; or
  - (b) if an appeal is made under subsection (6) and the Mining Tribunal makes an order affirming the decision, 14 days after the date of the order.

#### **67. Surrender of retention licence**

- (1) A licensee may apply to the Director for approval to surrender a licence or part of a licence.
- (2) An application for approval to surrender a licence or part of a licence is to be –
  - (a) in an approved form; and
  - (b) accompanied by the licence; and
  - (c) accompanied by the prescribed fee; and
  - (d) lodged with the Registrar.
- (3) The Director may –
  - (a) approve the application, with or without any conditions; or

(b) refuse to approve the application.

(4) The Director, by notice in writing, is to notify the applicant of –

(a) the approval of the application; or

(b) the refusal to approve the application and the reason for the refusal.

(5) If the Director approves an application on conditions, the Director, by notice in writing, is to notify the applicant when the Director is satisfied that all the conditions have been fulfilled.

(6) If the Director approves an application, the licence, or the part of the licence, to which the application relates –

(a) is, if the application is approved without conditions, surrendered on the date on which the Director gives to the applicant notice under subsection (4) of the approval; or

(b) is, if the application is approved with conditions, surrendered on the date on which the Director gives to the applicant notice under subsection (5) that the Director is satisfied that all the conditions have been fulfilled.

## **PART 3A - Production Licences**

### ***Division 1 - Applications***

#### **67A. Application for production licence**

- (1) A person may apply to the Minister for a petroleum production licence or a geothermal production licence.
- (2) A person may only apply under subsection (1) for a petroleum production licence if –
  - (a) the licence is to relate to both –
    - (i) the minerals specified in an exploration licence, or a special exploration licence, for Category 4 minerals; and
    - (ii) any area of land comprised in that licence; and
  - (b) the person is the holder of the exploration licence or special exploration licence or is a person to whom a consent under section 67B in relation to that licence has been given by the holder of the licence.
- (3) A person may only apply under subsection (1) for a geothermal production licence if –
  - (a) the licence is to relate to both –
    - (i) the minerals specified in an exploration licence, or a special exploration licence, for Category 6 minerals; and
    - (ii) any area of land comprised in the exploration licence or special exploration licence; and
  - (b) the person is the holder of the exploration licence or special exploration licence or is a person to whom a consent under section 67B in relation to that licence has been given by the holder of the licence.
- (4) An application under subsection (1) is to –
  - (a) be in an approved form; and
  - (b) specify the minerals, or category of minerals, in respect of which it is made; and
  - (c) be accompanied by a statement specifying –
    - (i) the production activities to be carried out under the licence; and
    - (ii) a description of the area of land in respect of which the licence is sought; and
    - (iii) the financial and technical resources available to the applicant; and
    - (iv) an estimate of the proposed expenditure on activities under the licence; and
    - (v) the likely impact on the environment of activities under the licence; and
  - (d) be accompanied by a fee determined by the Minister; and
  - (e) be accompanied by a plan of development or a plan of field development; and
  - (f) contain any other details the Director requires; and
  - (g) be lodged with the Registrar.
- (5) The Registrar or the Director or both may require an applicant to provide further information.

#### **67B. Holder of licence may consent to other person applying for production licence**

- (1) The holder of an exploration licence, or a special exploration licence, in relation to a Category 4 mineral may, by notice in writing to another person, consent to the other person applying, either alone or in conjunction with the holder, for a petroleum production licence that is to relate to both –
  - (a) the minerals, or category of minerals, specified in the exploration licence or special exploration licence; and

(b) any area of land comprised in that licence.

(2) The holder of an exploration licence, or a special exploration licence, in relation to a Category 6 mineral may, by notice in writing to another person, consent to the other person applying, either alone or in conjunction with the holder, for a geothermal production licence that is to relate to both –

(a) the minerals, or category of minerals, specified in the exploration licence or special exploration licence; and

(b) any area of land comprised in that licence.

(3) A person to whom a notice of consent is given under subsection (1) or (2) is to provide the Registrar with a copy of that notice within 14 days of the date of the notice.

#### **67C. Pending applications**

(1) An application for a licence is pending from the day on which it is lodged until whichever of the following happens first:

(a) the application is granted;

(b) the application is refused;

(c) the application lapses;

(d) the application is withdrawn.

(2) An application for a licence lapses –

(a) 12 months after it is lodged, if it is not determined or withdrawn by that time; or

(b) at a later date fixed by the Director, if –

(i) the failure to determine the application was not caused by a default of the applicant; or

(ii) there is, in the opinion of the Director, a sufficient reason for fixing a later date.

#### **67D. Recommendation of application for production licence**

(1) The Director is to consider an application for a licence.

(2) If the Director intends to recommend to the Minister that the application be granted, the Director is to –

(a) notify that intention by notice in writing –

(i) to the applicant; and

(ii) as required by section 29 of the *Native Title Act 1993* of the Commonwealth; and

(b) publish a notice of that intention in a newspaper circulating in the relevant area.

(3) A notice under subsection (2)(b) is to specify –

(a) the name of the applicant; and

(b) the area of land in respect of which the application is made; and

(c) any other prescribed matter.

#### **67E. Objection to production licence**

(1) Any person with an interest or estate in land within the area specified in a notice published under section 67D(2)(b), or who is the holder of a mineral tenement in respect of such land, may object to the granting of the application for a licence in respect of that land.

(2) An objection is to –

(a) be in writing; and

(b) specify the grounds; and

(c) be accompanied by the prescribed fee; and

(d) be lodged with the Registrar within 28 days after the date of the publication of the notice under section 67D(2)(b) .

(3) An objection is to be heard and determined by the Mining Tribunal.

#### **67F. Alteration of application, &c., before notice published**

(1) A person who has applied for a licence may, by notice to the Director, alter –

(a) the application for the licence; or

(b) the statement accompanying, in accordance with section 67A(4)(c) , the application for the licence.

(2) The alterations to an application for a licence that may be specified in a notice under subsection (1) –

(a) include an alteration of the area of land in respect of which the licence is sought; but

(b) do not include an alteration of the minerals, or the category of minerals, in respect of which the application is made.

(3) A notice may only be given to the Director under subsection (1) before notice of the application is published under section 67D(2)(b) (including publication of such a notice in accordance with section 67H(2)(a) ).

(4) An application altered under subsection (1) is, as so altered, to be taken to be the application as lodged under section 67A .

#### **67G. Alteration of application after objection**

(1) If the Mining Tribunal upholds an objection relating to a part of the land in respect of which an application for a licence is made, it may allow the applicant to alter the application by excluding that part.

(2) An application for a licence altered under subsection (1) is, as so altered, to be taken to be the application as lodged under section 67A .

#### **67H. Granting application for production licence**

(1) After considering an application for a licence and any recommendation of the Director (but subject to any decision of the Mining Tribunal), the Minister may –

(a) grant the application; or

(b) refuse to grant the application.

(2) If the Minister intends to grant an application for a licence contrary to the recommendation of the Director –

(a) the Director is to notify that intention in accordance with section 67D(2) ; and

(b) a person with an interest or estate in the land in respect of which the licence is sought is entitled to object in accordance with section 67E .

(3) The Minister, by notice in writing, must notify the applicant of –

(a) the grant of the application; or

(b) the refusal to grant the application and the reasons for the refusal.

#### **67I. When Minister may grant application**

(1) The Minister may only grant an application for a licence if the Minister is satisfied that the applicant –

(a) intends to undertake production of Category 4 minerals or Category 6 minerals; and

(b) intends to comply with this Act; and

(c) has an appropriate plan of development or plan of field development; and

- (d) has provided sufficient information relating to the likely impact on the environment of activities under the licence; and
  - (da) has provided a copy of the applicant's current public liability insurance policy; and
  - (e) has provided a security deposit; and
  - (f) has provided any other information requested by the Director.
- (2) The Minister may only grant an application for a licence in respect of a Category 4 mineral if the applicant satisfies the Minister that the licence, if issued, would relate to a petroleum reservoir, or reservoirs, containing sufficient petroleum to enable the production of the petroleum, on the scale proposed, to be feasible.
- (3) The Minister may only grant an application for a licence in respect of a Category 6 mineral if the applicant satisfies the Minister that –
- (a) the geothermal resources to which the licence is to relate exist; and
  - (b) the production of geothermal energy on the scale proposed is feasible.
- (4) The Minister may only grant an application for a licence in respect of private land if the Minister is satisfied that –
- (a) the applicant has entered into a compensation agreement with the owner or occupier of the land; or
  - (b) the Mining Tribunal has determined under section 150 the rate at which compensation is payable to the owner or occupier of the land.
- (5) The Minister may only grant an application for a licence if the Minister is satisfied that the applicant has –
- (a) sufficient technical and financial resources; or
  - (b) an agreement, contract, or other arrangement, with another person to ensure the provision of sufficient technical and financial resources –
- to enable the carrying out of the proposed plan of development or proposed plan of field development.
- (6) The Minister may refuse to grant an application for a licence by an applicant if the Minister is of the opinion that the application ought to be refused because –
- (a) of significant, or repeated, breaches of this Act or the regulations by –
    - (i) the applicant; or
    - (ii) a person, authorised or employed by the applicant, who committed the breach, or breaches, in relation to activities under a licence of any kind, or a lease, of the applicant; or
  - (b) the applicant has failed to comply with the conditions subject to which an application under this Act by the applicant for a licence of any kind, or a lease, was granted; or
  - (c) the applicant has failed to substantially carry out as much of a work program, development plan, field development plan, or mining plan, in relation to a licence of any kind, or a lease, of the applicant, as ought reasonably to be expected to have been carried out at the time the application is made.
- (7) The Minister may refuse to grant an application for a licence by an applicant if the Minister is of the opinion that the application ought to be refused because –
- (a) taking into account the risks and benefits to the State of allowing production activities under the licence to occur, it is in the best interests of the State not to grant the application for the licence; or
  - (b) it is desirable to preserve the minerals in the area of land to which the licence would relate so as to enable their exploitation in the future.

#### **67J. Conditions of licence**

- (1) The Minister may grant an application for a licence subject to any conditions the Minister considers appropriate.

- (2) Without limiting the generality of subsection (1), the conditions that may be imposed include –
- (a) a condition as to the amount of money that is to be expended –
    - (i) during the period in which the licence is in force; or
    - (ii) during one or more periods, in which the licence is in force, specified in the licence –
 or both, for the purposes of, or in relation to, exploration or production activities under the licence; and
  - (b) a condition requiring the completion of work to be undertaken in accordance with a development plan or a field development plan –
    - (i) during the period in which the licence is in force; or
    - (ii) during one or more periods, in which the licence is in force, specified in the licence –
 or both, for the purposes of, or in relation to, exploration or production activities under the licence.
- (3) If a licence is held by 2 or more persons, those persons are jointly and severally liable for complying with the conditions of the licence.
- (4) The Minister may vary the conditions of the licence by rescinding, adding, substituting or amending a condition.
- (5) Before varying the conditions of a licence, the Minister, by notice in writing served on the licensee, is to notify the licensee of –
- (a) the intention to vary the conditions; and
  - (b) the nature of the variation; and
  - (c) the right of the licensee to make submissions in relation to the matter within a period specified in the notice.
- (6) A licensee may, within 28 days after the date of the Minister's decision to vary the conditions of a licence, appeal to the Mining Tribunal against the decision.
- (7) The variation of the conditions of the licence takes effect –
- (a) if an appeal is not made under subsection (6), 28 days after service of a notice under subsection (5); or
  - (b) if an appeal is made under subsection (6) and the Mining Tribunal makes an order affirming the decision, 10 days after the date of the order.

**67K. Restriction on exploration on private land**

The holder of a licence, a person authorised by the holder of a licence, and a person acting under a contract of service, or a contract for services, with the holder of a licence, must not explore on private land within 100 metres of –

- (a) the surface of any natural lake, artificial lake, dam, reservoir, water-producing well, or artificial pond, part or all of which is on the land; or
- (b) any dwelling, or substantial building, on the land –

unless the holder of the licence has the consent of the owner and of the occupier of the land to do so.

Penalty: Fine not exceeding 100 penalty units.

***Division 2 - Production licences***

**67L. Production licence**

(1) On granting an application for a licence, the Minister is to issue a petroleum production licence or a geothermal production licence.

(2) A licence is to –

- (a) be in an approved form; and
- (b) include the following particulars:
  - (i) a description of the area of land comprised in the licence;
  - (ii) the total area of that land;
  - (iii) the minerals, or category of minerals, to which the licence relates;
  - (iv) the terms and conditions to which it is subject;
  - (v) the period for which it is in force.

(3) A licensee is to pay rent to the Crown in respect of the land to which the licence relates at a prescribed rate and in a prescribed manner.

#### **67M. Area of land comprised in production licence**

(1) The area of land comprised in a petroleum production licence is to be, in the opinion of the Minister, sufficient –

- (a) to allow the activities set out in the field development plan in respect of the licence to be carried out; and
- (b) to enable future petroleum production in relation to the petroleum field to which the field development plan relates; and
- (c) to enable future storage in any petroleum reservoir to which the licence relates.

(2) The area of land comprised in a geothermal production licence is to be, in the opinion of the Minister, sufficient –

- (a) to allow the activities set out in the development plan in respect of the licence to be carried out; and
- (b) to enable future development of the geothermal resource; and
- (c) to cover the extent of any geothermal reservoir that is specified in the application; and
- (d) to enable future storage in the geothermal reservoir.

(3) Land comprised in a licence may be either or both of the following:

- (a) the same size as, or smaller than, the area of land in respect of which the licence was sought;
- (b) different in shape from the area of land in respect of which the licence was sought.

(4) An area of land comprised in a licence must not include an area which –

- (a) is subject to a licence of any kind in respect of the same minerals or category of minerals; or
- (b) is the subject of an application for a retention licence or a lease; or
- (c) is the subject of a retention licence or a lease.

#### **67N. Authority of production licence**

(1) A licence authorises the holder of the licence, a person authorised by the holder of the licence, and a person acting under a contract of service, or a contract for services, with the holder of the licence –

- (a) to explore, in accordance with the conditions of the licence, in the area of land specified in the licence for minerals, or minerals within the category of minerals, specified in the licence; and
- (b) to carry out, in accordance with the conditions of the licence, in the area of land specified in the licence, production activities in relation to minerals, or minerals within a category of minerals, specified in the licence; and

(c) to enter on, and pass over, in accordance with the conditions of the licence, Crown land for the purposes referred to in paragraphs (a) and (b) ; and

(d) subject to subsection (2) , to enter on, and pass over, in accordance with the conditions of the licence, private land for the purposes referred to in paragraphs (a) and (b) .

(2) A person may only enter on, or pass over, private land by giving written notice in an approved form to the owner or occupier of the land 14 days, or any shorter period the owner or occupier allows, before doing so.

(3) A person must not hinder or obstruct a licensee from carrying out any activity under the licence.

Penalty: Fine not exceeding 100 penalty units.

#### **67O. Term of production licence**

A licence, unless revoked earlier or unless the term of the licence is extended under section 67P , is in force for a period of 10 years from the date on which the application for the licence is granted.

#### **67P. Extension of term of production licence**

(1) A person may apply to the Minister for an extension of the term of a licence.

(2) An application is to be –

(a) in an approved form; and

(b) accompanied by the prescribed fee; and

(c) lodged with the Registrar before the licence ceases to be in force.

(3) The Minister may –

(a) grant the application for any further period, of not more than 10 years, that the Minister determines, and with or without any conditions; or

(b) refuse to grant the application.

(4) The Minister may grant under this section more than one application in relation to a licence under this section.

(5) The Minister, by notice in writing, must notify the applicant of –

(a) the grant of the application; or

(b) the refusal to grant the application and the reasons for the refusal.

(6) A licensee may, within 28 days after receipt of a notice under subsection (5) in relation to an application, appeal to the Mining Tribunal against the Minister's refusal to grant the application.

(7) A licence to which an application under subsection (1) relates remains in force until –

(a) the Minister makes a decision under subsection (3) ; or

(b) if an appeal is made under subsection (6) , the Mining Tribunal makes an order in relation to the appeal; or

(c) if the date on which the licence would, if the application were not granted, expire is a date later than the date on which a decision or order referred to in paragraph (a) or (b) occurs – the date on which the licence would expire.

#### **67Q. Exemption from conditions of production licence**

(1) A licensee may apply to the Minister for an exemption from any condition of a licence.

(2) An application is to be –

(a) in an approved form; and

(b) accompanied by the prescribed fee; and

- (c) lodged with the Registrar.
- (3) The Minister may –
  - (a) grant the application; or
  - (b) refuse to grant the application.
- (4) If the Minister grants the application, the Minister is to issue the licensee with a certificate of exemption.
- (5) A certificate of exemption –
  - (a) remains in force for the period specified in the certificate; and
  - (b) is subject to any conditions specified in the certificate.

#### **67R. Annual report**

- (1) A licensee, by the relevant date after each 12-month period ending on the anniversary of the day on which the application for the licence is granted, is to submit to the Director a report (an *annual report*) in relation to that 12-month period.
- (2) The relevant date in relation to a 12-month period is –
  - (a) 30 days after the end of the period; or
  - (b) a date specified, by the Director in a notice to the licensee, as the relevant date for the purposes of this section.
- (3) The annual report is to –
  - (a) be in accordance with the approved form and accompanied by a statutory declaration as to its accuracy; and
  - (b) specify the amounts of money expended in respect of any exploration or production activities carried out during the year to which it relates; and
  - (c) contain a summary of the matters specified in whichever of section 187(4) or (5) applies in relation to the licence; and
  - (d) give details of any exploration or production activities carried out under the development plan or the field development plan, as the case may be, during the year; and
  - (e) give details of any proposed exploration or production activities to be carried out in the next calendar year under the development plan or the field development plan, as the case may be; and
  - (f) contain any other matter relating to the licence that is specified in the reporting guidelines, or by the Director by notice in writing to the holder of the licence, as being required to be contained in the report.

#### **67RA. Final report**

- (1) Within 3 months after the expiration, surrender or revocation of a licence, the licensee must submit to the Director a report (a *final report*) in relation to the period of the licence.
- (2) The final report is to –
  - (a) be in accordance with the reporting guidelines; and
  - (b) contain any other matter relating to the licence that is specified in the reporting guidelines, or by the Director by notice in writing to the licensee, as being required to be contained in the report.

#### **67S. Returns**

- (1) A licensee is to submit to the Director, within 28 days after the end of a quarter, a return (a *quarterly return*) in relation to the quarter.
- (2) A quarterly return is to be in the approved form, if any, and is to be accompanied by a statutory declaration as to its accuracy.

(3) A quarterly return in relation to a licence is to –

- (a) specify the nature, quantity and value of the minerals obtained, under the licence, during the quarter to which the return relates; and
- (b) specify the average number of persons employed in relation to the licence during the quarter; and
- (c) contain any other statistical information relating to the licence that is specified in the form, in the reporting guidelines, or by the Director by notice in writing to the licensee, as being required to be contained in the return.

(4) A licensee, by the anniversary, in each year, of the date on which the application for the licence is granted, is to submit to the Director a return (an **annual return**) in relation to the 12-month period before that anniversary.

(5) An annual return is to be in the approved form, if any, and is to be accompanied by a statutory declaration as to its accuracy.

(6) The Director may, by notice to a licensee, require the licensee to submit to the Director, by the date or dates specified in the notice, the information specified in the notice as required to be submitted by the licensee.

(7) A licensee is to submit to the Director, by the date or dates specified in the notice to the licensee under subsection (6), the information specified in the notice as required to be submitted by the licensee.

(8) The information submitted to the Director under subsection (7) is to be accompanied by a statutory declaration as to its accuracy.

(9) The information specified in an approved form, or a notice under this section, as required to be submitted by the licensee may include an audited report.

#### **67T. Duties under production licence**

(1) A licensee must carry out any exploration or production activities under the licence efficiently and effectively.

(2) A licensee is to carry out any exploration, production activities and rehabilitation of land consistently with the standards specified in any relevant Code of practice.

(3) If production activities have not commenced within 24 months after the grant of the licence, the Minister may, by notice in writing to the licensee, require the licensee to commence production activities under the licence.

(4) If, in the Minister's opinion, production activities on the area of land comprised in a licence are practicable and commercially feasible, the Minister may, by notice in writing to the licensee, require the licensee to undertake or continue production activities in accordance with the requirements specified in the notice, until the licensee satisfies the Minister that the production activities are no longer practicable or commercially feasible.

(5) A notice under subsection (4) may require petroleum, or geothermal energy, from the area comprised in the licence to be produced at a rate that is no less than the rate specified in the notice.

(6) If the holder of a licence fails to proceed with production activities, or a rate of production, as required under the licence or by notice under this section, and has not entered into arrangements satisfactory to the Minister for production activities or a rate of production or use in the future, the Minister may, by written notice to the licensee, revoke the licence.

#### **67U. Production without licence**

A person must not carry out production activities for Category 4 minerals or Category 6 minerals unless the person –

- (a) is the holder of a production licence in relation to the minerals; or
- (b) is authorised by the holder of the licence to carry out production activities; or

(c) is a person acting under a contract of service, or a contract for services, with the holder of the licence; or

(d) has the written consent of the holder of the licence to do so.

Penalty: Fine not exceeding 100 penalty units.

### ***Division 3 - Dealings with licence***

#### **67V. Variation of production licence**

(1) The Minister, by notice in writing, with the approval of the licensee, may vary the licence by adding to, or reducing, the area of land comprised in the licence.

(2) On the application of a licensee, the Minister, by notice in writing, may vary the licence by adding to, or reducing, the area of land comprised in the licence.

(3) If a licensee fails to comply with, or contravenes, a provision of this Act or a condition of the licence, the Minister may vary the licence by –

(a) varying or adding any condition; or

(b) reducing the area of land comprised in the licence.

(4) Before varying a licence, the Minister, by notice in writing served on the licensee, is to notify the licensee of –

(a) the intent to vary the licence; and

(b) the nature of the variation; and

(c) the right of the licensee to make submissions in relation to the matter within a period specified in the notice.

(5) A licensee may, within 28 days after the date of Minister's decision to vary the licence, appeal to the Mining Tribunal against the Minister's decision.

(6) The variation of the licence takes effect –

(a) if an appeal is not made under subsection (5), 28 days after service of a notice under subsection (4); or

(b) if an appeal is made under subsection (5) and the Mining Tribunal makes an order affirming the decision, 10 days after the date of the order.

#### **67W. Application for transfer of production licence**

(1) A licensee may apply to the Minister for approval to transfer a licence.

(2) An application is to be –

(a) in an approved form; and

(b) accompanied by the executed instrument of transfer; and

(c) accompanied by the prescribed fee; and

(d) lodged with the Registrar within 28 days after the transfer is executed.

(3) The Registrar may extend the period referred to in subsection (2)(d) if the Registrar is satisfied that it is reasonable to do so.

(4) The Registrar, by notice in writing, is to notify of an application lodged under this section in relation to a licence any person who has lodged a caveat under Part 10 in relation to the licence.

(5) A notice under subsection (4) is to be sent by certified mail within 14 days after the application is lodged.

(6) A person who has lodged a caveat under Part 10 in relation to a licence may, within 14 days after receipt of the notice under subsection (5) , object to the Mining Tribunal against an application for approval to transfer the licence.

**67X. Approval of transfer of production licence**

- (1) The Minister may –
  - (a) approve the application for the transfer of a licence; or
  - (b) refuse to approve the application until conditions specified by the Minister are satisfied; or
  - (c) refuse to approve the application.
- (2) The Minister, by notice in writing, must notify the applicant of –
  - (a) the approval of the application; or
  - (b) the conditions, if any, that must be satisfied before the Minister will approve the transfer; or
  - (c) the refusal to approve the application and the reasons for the refusal.
- (3) A transfer –
  - (a) is of no effect unless approved by the Minister; and
  - (b) takes effect, if approved, on the date of the approval.

**67Y. Revocation of production licence**

- (1) The Minister may revoke a licence or part of a licence if –
  - (a) the licensee fails to comply with, or contravenes –
    - (i) any provision of this Act; or
    - (ii) any condition of the licence; or
  - (b) the Minister is satisfied that any area of land comprised in the licence is required for any public purpose.
- (2) Before revoking a licence or part of a licence under subsection (1)(a) , the Minister –
  - (a) by notice in writing served on the licensee, is to notify the licensee of the intention to revoke the licence or part of the licence; and
  - (b) is to give the licensee an opportunity to make submissions in relation to the matter.
- (3) If the Minister revokes a licence or part of a licence, the Minister, by notice in writing, is to notify the licensee.
- (4) If the Minister revokes a licence or part of a licence under subsection (1)(b) , the licensee is entitled to compensation under Part 8 .
- (5) The Minister, as soon as practicable after a licence or a part of a licence is revoked, is to give notice in the *Gazette* of the revocation.
- (6) A licensee may, within 28 days after the Minister's decision to revoke the licence, appeal to the Mining Tribunal against the decision.
- (7) The revocation of a licence or part of a licence takes effect –
  - (a) if an appeal is not made under subsection (6) , 28 days after publication of a notice under subsection (5) ; or
  - (b) if an appeal is made under subsection (6) and the Mining Tribunal makes an order affirming the decision, 10 days after the date of the order.

**67Z. Surrender of production licence**

- (1) A licensee may apply to the Director for approval to surrender a licence or part of a licence.
- (2) An application for approval to surrender a licence or part of a licence is to be –
  - (a) in an approved form; and
  - (b) accompanied by the licence; and
  - (c) accompanied by the prescribed fee; and
  - (d) lodged with the Registrar.
- (3) The Director may –
  - (a) approve the application, with or without any conditions; or
  - (b) refuse to approve the application.
- (4) The Director, by notice in writing, is to notify the applicant of –
  - (a) the approval of the application; or
  - (b) the refusal to approve the application and the reasons for that refusal.
- (5) If the Director approves an application on conditions, the Director, by notice in writing, is to notify the applicant when the Director is satisfied that all the conditions have been fulfilled.
- (6) If the Director approves an application, the licence, or the part of the licence, to which the application relates –
  - (a) is, if the application is approved without conditions, surrendered on the date on which the Director gives to the applicant notice under subsection (4) of the approval; or
  - (b) is, if the application is approved with conditions, surrendered on the date on which the Director gives to the applicant notice under subsection (5) that the Director is satisfied that all the conditions have been fulfilled.

## **PART 4 - Mining Leases**

### ***Division 1 - Applications, marking out and objections***

#### **68. Notice to apply for mining lease**

- (1) If the Minister is of the opinion that mining operations should commence on any area of land comprised in a retention licence, the Minister, by notice in writing, may require the licensee to provide reasons for not applying for a lease.
- (2) A notice is to specify –
  - (a) the area of land to be subject to a lease; and
  - (b) the period within which the licensee is to provide reasons for not applying for a lease.
- (3) The Minister, by notice in writing, may direct the licensee to apply for a lease within a specified period if –
  - (a) the licensee fails to provide reasons within the specified period; or
  - (b) the Minister, after considering any reasons provided, is not satisfied that the licensee should not apply for a lease.
- (4) If the licensee fails to apply for a lease within the specified period or fails to fulfil the requirements of section 78A within 6 months after making an application for a lease or within any other time the Minister determines, the Minister may –
  - (a) revoke the licence held by the licensee; or
  - (b) amend it to exclude the area of land specified in a notice under subsection (2) (a) .

#### **69. Mining without lease prohibited**

A person must not carry out any mining in any area of land unless –

- (a) the person is the holder of a lease in respect of that area of land; or
- (b) the land is private land and mining is carried out under section 7 ; or
- (c) the person is authorised to do so under a mineral tenement.

Penalty: Fine not exceeding 500 penalty units or imprisonment for a term not exceeding 6 months, or both.

#### **70. Applications for mining lease**

- (1) A person may apply to the Minister for a lease.
- (2) An application is to –
  - (a) be in an approved form; and
  - (b) specify the minerals, or category of minerals, in respect of which it is made; and
  - (c) be accompanied by a statement specifying –
    - (i) the mining to be carried out under the lease; and
    - (ii) a description of the area of land in respect of which the lease is sought; and
    - (iii) the financial and technical resources available to the applicant to carry out the mining; and
    - (iv) an estimate of the proposed expenditure on mining operations under the lease; and
  - (d) be accompanied by a plan of that area; and
  - (e) be accompanied by the prescribed fee, if any; and
  - (f) be lodged with the Registrar within 7 days after marking out that area under section 72 ; and

(g) be accompanied by 6 months' rent in advance; and

(h) contain any other prescribed details.

(3) The Director may require an applicant to provide further information.

(4) If a relevant licence, within the meaning of section 161E(1), ceases to be in force in relation to an area of land, a person may not, until a date specified by the Director, in accordance with section 161E(2)(c), in a notice published under section 161E(2) in relation to the licence, apply for a lease that is to relate to both –

(a) all or part of the area of land that is specified in the notice; and

(b) a mineral, or category of minerals, specified in the notice.

## **71. Exclusive right to mining lease**

(1) The holder of an exploration licence, a special exploration right or a retention licence has the exclusive right to mark out and apply for a lease that is to relate to both–

(a) the area or part of the area of land comprised in the licence; and

(b) the minerals, or category of minerals, specified in the licence.

(2) The holder of an exploration licence, a special exploration right or retention licence may forgo the exclusive right referred to in subsection (1) by notice in writing to any other person consenting to that person, either alone or in conjunction with the holder, marking out and applying for a lease.

(3) A person who receives a notice under subsection (2) is to provide the Registrar with a copy of that notice within 14 days of the date of the notice.

(4) If, in respect of an area of land comprised in an exploration licence, a special exploration licence or a retention licence, a person forgoes an exclusive right to mark out and apply for a lease and a lease is granted, that area of land ceases to be subject to the licence.

## **72. Marking out**

(1) A person who intends to apply for a lease is to mark out in the prescribed manner the land to which the application is to relate.

(2) A person who intends to apply for a lease may enter on, and pass over, land for the purpose of marking out the lease to which the application for the lease is to relate.

(2A) A person who intends to apply for a lease and who marks out land is to, within 7 days of marking out the land, notify the owner of the land –

(a) of the marking out of the land; and

(b) of the area of land that has been marked out; and

(c) of the minerals, or category of minerals, to which it is intended the lease will relate.

(3) An owner or occupier of land may make a claim to the Mining Tribunal for any unnecessary or unreasonable damage to land or property caused by the applicant in marking out land.

(4) In respect of any area of land covered by the sea or any lake, pond, river or stream or any area of land which does not include the surface of the earth, an applicant –

(a) need not mark out that area; and

(b) must comply with any conditions determined by the Director.

## **73. Pending applications for leases**

(1) An application for a lease is pending from the marking out of the land until whichever of the following happens first:

(a) the application is granted;

(b) the application is refused;

- (c) the application lapses;
  - (d) the application is withdrawn.
- (2) An application for a lease lapses 12 months after the marking out unless the Director extends that period.
- (3) The Director may only extend the period of 12 months if satisfied that –
- (a) the failure to determine the application is not caused by default of the applicant; or
  - (b) there is sufficient reason to do so.

#### **74. Priority of applications for leases**

- (1) If more than one application is received for a lease in respect of all or part of the same land, the order of priority is as follows:
- (a) an application by a person who marks out the land before any other person has priority over an application by that other person;
  - (b) for applications where marking out is done on the same day, the order of priority is as determined by the Director according to the relative merits of the applications;
  - (c) for applications where marking out is done on the same day and which are determined by the Director to be of equal merit, the order of priority is as determined by a ballot conducted in an approved manner;
  - (d) applications received up to and including 4 working days after the date specified by the Director, in accordance with section 161E(2)(c), in a notice under section 161E(2) in relation to a relevant licence, within the meaning of that section, in respect of all or part of the land to which the application relates, are to be taken to be received on the same day.
- (2) The Registrar is to reject any application received later than 3 months after receipt of an application determined to have priority.

#### **74A. Alteration of application, &c., before notice given**

- (1) A person who has applied for a lease may, by notice to the Director, alter –
- (a) the application for the lease; or
  - (b) the statement accompanying, in accordance with section 70(2)(c), the application for the lease.
- (2) The alterations to an application for a lease that may be specified in a notice under subsection (1) include, but are not limited to including, alterations of –
- (a) the minerals, or the category of minerals, in respect of which the application is made; and
  - (b) the area of land in respect of which the lease is sought.
- (3) A notice may only be given to the Director under subsection (1) before notice of the application is given under section 75(2).
- (4) An application altered under subsection (1) is, as so altered, to be taken to be the application as lodged under section 70.

#### **75. Recommendation of application for mining lease**

- (1) The Director is to consider an application for a lease.
- (2) If the Director intends to recommend to the Minister that the application be granted, the Director is to notify that intention by notice in writing –
- (a) to the applicant; and
  - (b) as required under section 29 of the Native Title Act 1993 of the Commonwealth; and
  - (c) to the holder of a lease under section 106.

(2A) If the Director intends to recommend to the Minister that the application be granted, the Director is to provide the applicant with a copy of the proposed lease.

(2B) The applicant, within 14 days after receiving a copy of the proposed lease, may make submissions to the Minister in relation to the proposed terms and conditions of that lease.

(3) . . . . .

(4) . . . . .

**76. Objections to mining lease**

(1) Any person with an interest or estate in the area of land in respect of which a lease is sought, or who is the holder of a mineral tenement in respect of that area, may object to the granting of the application of a lease in respect of that area.

(2) An objection is to –

(a) be in writing; and

(b) specify the grounds; and

(c) be accompanied by the prescribed fee; and

(d) be lodged with the Registrar within 28 days after the date of marking out.

(3) An objection is to be heard and determined by the Mining Tribunal.

**77. Amendment of applications after objections**

(1) If the Mining Tribunal upholds an objection in respect of a part of the land comprised in the application, it may allow the applicant to amend the application for a lease by excluding that part.

(2) An application amended under subsection (1) is taken to be lodged on the date on which the original application was lodged.

**78. Granting application for mining lease**

(1) After considering an application for a lease and any recommendation of the Director and subject to any decision of the Mining Tribunal, the Minister may –

(a) grant the application; or

(b) refuse to grant the application.

(2) If the Minister intends to grant a lease contrary to the recommendation of the Director –

(a) the Director is to notify that intention in accordance with section 75 (2) ; and

(b) a person with an interest or estate in the land in respect of which the lease is sought is entitled to object in accordance with section 76 .

(3) The Minister, by notice in writing, must notify an applicant of –

(a) the grant of the application; or

(b) the refusal to grant the application and the reasons for the refusal.

**78A. When Minister may grant application**

(1) The Minister may only grant an application for a lease if the Minister is satisfied that the applicant –

(a) has demonstrated that there is a sufficient quantity of minerals to justify mining; and

(b) intends to carry out mining operations under the lease; and

(c) intends to comply with this Act; and

(d) has an appropriate mining plan; and

(e) is likely to have sufficient financial and technical resources to carry out the mining plan; and

(f) has provided a copy of the applicant's current public liability insurance policy; and

(g) has provided a security deposit.

(2) The Minister may only grant an application for a lease in respect of private land if the Minister is satisfied that –

(a) the applicant has entered into a compensation agreement with the owner or occupier of the land; or

(b) the Mining Tribunal has determined under section 150 the rate at which compensation is payable to the owner or occupier of the land.

(3) Subsection (2) does not apply to the prescribed area of land in the municipal area of West Tamar that is more than 15 metres from the surface of the land.

(4) The Minister may refuse to grant an application for a lease by an applicant if the Minister is of the opinion that the application ought to be refused because –

(a) of significant, or repeated, breaches of this Act or the regulations by –

(i) the applicant; or

(ii) a person, authorised or employed by the applicant, who committed the breach, or breaches, in relation to activities under a licence of any kind, or a lease, of the applicant; or

(b) the applicant has failed to comply with the conditions subject to which an application under this Act by the applicant for a licence of any kind, or a lease, was granted; or

(c) the applicant has failed to substantially carry out as much of a work program, development plan, field development plan, or mining plan, in relation to a licence of any kind, or a lease, of the applicant, as ought reasonably to be expected to have been carried out at the time the application is made.

(5) The Minister may refuse to grant an application for a lease by an applicant if the Minister is of the opinion that the application ought to be refused because –

(a) taking into account the risks and benefits to the State of allowing mining operations under the lease to occur, it is in the best interests of the State not to grant the application for the lease; or

(b) it is desirable to preserve the minerals in the area of land to which the lease would relate so as to enable their exploitation at a period in the future other than the period in which mining by the applicant in respect of the area of land would occur.

## **79. Mining lease over private land**

The holder of a lease, a person authorised by the holder of a lease, and a person acting under a contract of service, or a contract for services, with the holder of a lease, must not explore, or carry out mining operations, on private land within 100 metres of –

(a) the surface of any natural lake, artificial lake, dam, reservoir, water-producing well, or artificial pond, part or all of which is on the land; or

(b) any dwelling, or substantial building, on the land –

unless the holder of the lease has the consent of the owner and of the occupier of the land to do so.

Penalty: Fine not exceeding 100 penalty units.

## **80. Conditions of mining lease**

(1) The Minister may grant an application for a lease subject to any conditions the Minister considers appropriate.

(2) If a lease is held by 2 or more persons, those persons are jointly and severally liable for complying with the conditions of the lease.

(3) The Minister may vary the conditions of the lease by rescinding, adding, substituting or amending a condition.

(3A) The Minister may vary the mineral category or categories to which the lease relates by rescinding, adding, substituting or amending a category or categories.

(4) The department or authority responsible for the Water Management Act 1999 is to ensure, as far as practicable, that a lessee has sufficient access under that Act to water for the purposes of the lease.

## ***Division 2 - Mining leases***

### **81. Mining lease**

(1) On granting an application for a lease, the Minister is to issue a lease.

(2) A lease is to –

(a) be in an approved form; and

(b) include the following particulars:

(i) a description of the area of land comprised in the lease;

(ii) the total area of that land;

(iii) the minerals, or category of minerals, to which the lease relates;

(iv) the terms and conditions to which it is subject;

(v) the period for which it is in force.

(3) The Minister may issue a lease with the endorsement "subject to survey".

(4) If a survey is carried out in respect of the area of land comprised in the lease, the Minister is to provide a supplement to the lease specifying the description of that area as ascertained by the survey.

### **82. Consolidated mining lease**

The Minister may issue a consolidated lease in respect of more than one area of land if satisfied that greater facilities for mining operations are more likely if those areas of land are comprised in one lease.

### **83. Area of land comprised in mining lease**

(1) The area of land comprised in a lease is an area determined by the Minister and which is at least the minimum area required for mining operations.

(2) Land comprised in a lease may be either or both of the following:

(a) the same size as, or smaller than, the area of land in respect of which the lease was sought;

(b) different in shape from the area of land in respect of which the lease was sought.

(3) An area of land comprised in a lease must not include an area which –

(a) is already a mineral tenement for the minerals, or a category of minerals, to which the lease is to relate, unless the mineral tenement is held by the person to whom the lease is to be issued; or

(b) is the subject of an application for a mineral tenement for the minerals, or a category of minerals, to which the lease is to relate, unless the application is made by the person to whom the lease is to be issued.

### **84. Authority of mining lease**

(1) A lease authorises the lessee, and a person acting under a contract of service, or a contract for services, with the holder of the lease–

(a) to carry out, in accordance with the conditions of the lease, mining operations in the area of land specified in the lease for minerals, or minerals within the category of minerals, specified in the lease;

and

(b) for that purpose, to, in accordance with the conditions of the lease, enter on, and pass over, Crown land; and

(c) to, in accordance with the conditions of the lease, enter on, or carry out mining operations on, private land within the mining lease if a compensation agreement is in force in respect of that land or the Mining Tribunal has made a determination under section 150 .

(2) A person must not hinder, or obstruct from carrying out any mining operations under the lease –

(a) a lessee; or

(b) a person who has a contract of service, or a contract for services, with a lessee; or

(c) a person who is authorised, by a lessee or a person referred to in paragraph (b) , to carry out any mining operations under the lease.

Penalty: Fine not exceeding 100 penalty units.

### **85. Term of mining lease**

(1) A lease, unless revoked earlier, is in force for the period the Minister determines.

(2) The Registrar, by notice in writing, is to notify the lessee of the impending expiry of the lease at least 3 months before it ceases to be in force.

### **86. Exemption from conditions of mining lease**

(1) A lessee may apply to the Minister for an exemption from any condition of a lease.

(2) An application is to be –

(a) in an approved form; and

(b) accompanied by the prescribed fee; and

(c) lodged with the Registrar.

(3) The Minister may –

(a) grant the application; or

(b) refuse to grant the application.

(4) If the Minister grants an application, the Minister is to issue the lessee with a certificate of exemption.

(5) A certificate of exemption –

(a) remains in force for the period specified in the certificate; and

(b) is subject to any conditions specified in the certificate.

### **87. Returns**

(1) A lessee is to submit to the Director, within 28 days after the end of a quarter, a return (a *quarterly return*) in relation to the quarter.

(2) A quarterly return is to be in the approved form, if any, and is to be accompanied by a statutory declaration as to its accuracy.

(3) A quarterly return in relation to a lease is to –

(a) specify the nature, quantity and value of the minerals obtained, under the lease, during the quarter to which the return relates; and

(b) specify the average number of persons employed in relation to the lease during the quarter; and

(c) contain any other statistical information relating to the lease that is specified in the form, in the reporting guidelines, or by the Director by notice in writing to the lessee, as being required to be

contained in the return.

- (4) The Director, by notice to a lessee, may require the lessee to submit to the Director, by the date or dates specified in the notice, the information specified in the notice as required to be submitted by the lessee.
- (5) The information specified in an approved form, or a notice under this section, as required to be submitted by the lessee may include an audited report.
- (6) A lessee is to submit to the Director, by the date or dates specified in the notice to the lessee under subsection (4) , the information specified in the notice as required to be submitted by the lessee.
- (7) The information submitted to the Director under subsection (6) is to be accompanied by a statutory declaration as to its accuracy.

#### **87A. Annual report**

- (1) The Director, by notice served on a lessee, may require the lessee to submit to the Director, by the relevant date after each 12-month period ending on the anniversary of the day on which the lease is granted, a report (an *annual report*) in relation to that 12-month period.
- (2) If a notice is served on a lessee under subsection (1) the lessee, by the relevant date after each 12-month period ending on the anniversary of the day on which the lease is granted, is to submit an annual report to the Director in relation to that 12-month period.
- (3) The relevant date in relation to a 12-month period is –
  - (a) 30 days after the end of the period; or
  - (b) a date specified, by the Director in the notice to the lessee under subsection (1) , as the relevant date for the purposes of this section.
- (4) The annual report is to –
  - (a) be in accordance with the approved form and accompanied by a statutory declaration as to its accuracy; and
  - (b) specify the amount of money expended in respect of any exploration or mining carried out during the year to which it relates; and
  - (c) contain a summary of the matters specified in section 188(2) ; and
  - (d) give details of any mining operations to be carried out in the next calendar year under the mining plan; and
  - (e) contain any other matter relating to the lease that is specified in the reporting guidelines, or by the Director by notice in writing to the lessee, as being required to be contained in the report.

#### **87B. Final report**

- (1) The Director, by notice served on a lessee, may require the lessee to submit to the Director, within 3 months after the expiration, surrender or revocation of a lease, a report (a *final report*) in relation to the period of the lease.
- (2) The final report is to –
  - (a) be in accordance with the reporting guidelines; and
  - (b) contain any other matter relating to the lease that is specified in the reporting guidelines, or by the Director by notice in writing to the lessee, as being required to be contained in the report.

#### **88. Duties under mining lease**

The lessee is to –

- (a) carry out any mining operations efficiently, effectively and consistent with standards specified in any relevant Code of practice; and

- (b) permit the Director to inspect any specimen or material obtained during any mining operations.

### ***Division 3 - Subleases***

#### **89. Sublease**

- (1) The lessee may apply to the Minister for approval to sublease a lease or part of a lease to another person.
- (2) An application for approval to sublease a lease or part of a lease is to be—
  - (a) in an approved form; and
  - (b) accompanied by the instrument of sublease; and
  - (c) accompanied by the prescribed fee; and
  - (d) lodged with the Registrar within 28 days after the sublease is signed.
- (3) The Registrar may extend the period referred to in subsection (2) (d) if satisfied that it is reasonable to do so.

#### **90. Recommendation of application for sublease**

- (1) The Director is to consider an application for approval to sublease a lease or part of a lease.
- (2) The Director may only recommend that the Minister grant an application for approval to sublease a lease or a part of a lease if the Minister is satisfied that the person to whom the lease or part is to be subleased—
  - (a) intends to mine; and
  - (b) intends to comply with the Act; and
  - (c) has an appropriate mining plan; and
  - (d) is likely to have sufficient financial and technical resources to carry out the mining plan; and
  - (e) has provided the Director with sufficient information relating to the likely impact on the environment; and
  - (f) has provided a security deposit.

#### **91. Approval of sublease**

- (1) The Minister may –
  - (a) approve the application with or without conditions; or
  - (b) refuse to approve the application.
- (2) The Minister, by notice in writing, must notify the lessee of –
  - (a) the approval of the application; or
  - (b) the refusal to approve the application and the reasons for the refusal.
- (3) A sublease –
  - (a) is of no effect until the Minister has approved under subsection (1) an application in relation to the sublease; and
  - (b) takes effect, if the Minister has approved under subsection (1) an application in relation to the sublease, on the date on which the Minister notifies the lessee of the approval.
- (4) This Part applies to a sublease to which an approval under subsection (1) relates as if it were a lease and the person holding the sublease were the lessee.

#### **92. Term of sublease**

- (1) A sublease ceases to be in force no later than the date the lease under which it is given ceases to be in force or is revoked or terminated.

- (2) If the lease is revoked or terminated for any reason not due to the default of the holder of the sublease, the Minister, on the application of the holder, may grant the holder a lease under this Part.
- (3) The term of a lease granted under subsection (2) is from the date on which the sublease was approved until –
  - (a) the end of the period determined under section 85 ; or
  - (b) any shorter period the Minister determines.

### ***Division 4 - Dealings with leases***

#### **93. Application for transfer of mining lease**

- (1) A lessee may apply to the Minister for approval to transfer a lease.
- (2) An application is to be –
  - (a) in an approved form; and
  - (b) accompanied by the duly executed instrument of transfer; and
  - (c) accompanied by the prescribed fee; and
  - (d) lodged with the Registrar within 28 days after the transfer is executed.
- (3) The Registrar may extend the period referred to in subsection (2) (d) if satisfied that it is reasonable to do so.
- (4) The Registrar, by notice in writing, is to notify of an application lodged under this section in relation to a licence any person who has lodged a caveat under Part 10 in relation to the licence.
- (5) A notice under subsection (4) is to be sent by certified mail within 14 days after the application is received.
- (6) A person who has lodged a caveat under Part 10 in relation to a lease may, within 14 days after receipt of a notice under subsection (5) in relation to the lease, object to the Mining Tribunal against an application for approval to transfer the lease.

#### **94. Recommendation of application for transfer**

- (1) The Director is to consider an application for the transfer of a lease.
- (2) The Director may only recommend that the Minister grant an application for the transfer of a lease if satisfied that the person to whom the applicant proposes to transfer the lease –
  - (a) intends to mine; and
  - (b) intends to comply with this Act; and
  - (c) has an appropriate mining plan; and
  - (d) is likely to have sufficient financial and technical resources to carry out the mining plan; and
  - (e) has provided the Director with sufficient information relating to the likely impact on the environment; and
  - (f) has provided a security deposit.

#### **95. Approval of transfer of mining lease**

- (1) The Minister may –
  - (a) approve the application; or
  - (ab) refuse to approve the application until conditions specified by the Minister are satisfied; or
  - (b) refuse to approve the application.
- (2) The Minister, by notice in writing, must notify the lessee of –

- (a) the approval of the application; or
- (ab) the conditions, if any, that must be satisfied before the Minister will approve the transfer; or
- (b) the refusal to approve the application and the reasons for the refusal.

(3) A transfer –

- (a) is of no effect unless approved by the Minister; and
- (b) takes effect, if approved, on the date of the approval.

#### **96. Application for renewal of mining lease**

(1) A lessee may apply to the Minister for a renewal of a lease not more than 3 months before and not later than one month after the lease ceases to be in force.

(2) An application is to be –

- (a) in an approved form; and
- (b) accompanied by the prescribed fee; and
- (c) lodged with the Registrar.

#### **97. Granting of application for renewal**

(1) The Minister may –

- (a) grant an application for the renewal of a lease, with or without conditions; or
- (b) refuse to grant the application.

(2) The Minister must grant the application if satisfied that –

- (a) the lessee has submitted a mining plan for the renewal period; and
- (b) the lessee has complied with the conditions of the lease and the provisions of this Act; and
- (c) a failure to comply with any condition of a lease was exempted under section 86 ; and
- (d) the lessee has provided a security deposit.

(3) The Director, by notice in writing, must notify the applicant of –

- (a) the grant of the application; or
- (b) the refusal to grant the application and the reasons for the refusal.

(4) A lessee may appeal to the Mining Tribunal against the Minister's refusal to grant the application within 28 days after receipt of a notice under subsection (3)(b).

#### **98. Term of renewed lease**

(1) A lease is renewed for the period, not exceeding 20 years, the Minister determines.

(2) If an application to renew a lease is granted before the lease ceases to be in force, the period referred to in subsection (1) starts on the day the lease would have ceased to be in force if it was not renewed.

(3) A lease continues in force –

- (a) if an application for renewal is made but not granted before it ceases to be in force, until the application is granted, refused or withdrawn, whichever occurs first; and
- (b) if an application is granted before it ceases to be in force, from the date on which it ceases to be in force until the end of the period referred to in subsection (1) .

#### **99. Revocation of mining lease**

(1) The Minister may revoke a lease or part of a lease if –

- (a) the lessee fails to comply with, or contravenes –

- (i) any provision of this Act; or
  - (ii) any condition of the lease; or
  - (b) satisfied that any area of land comprised in the lease is required for any public purpose; or
  - (c) satisfied that mining has not taken place for 12 months.
- (2) Before revoking a lease or part of a lease under subsection (1) (a) , the Minister –
- (a) by notice in writing served on the lessee, is to notify the lessee of the intention to revoke the lease or part of the lease; and
  - (b) is to give the lessee an opportunity to make submissions and give evidence in relation to the matter.
- (3) If the Minister revokes a lease or part of a lease, the Minister, by notice in writing, is to notify the lessee.
- (4) If the Minister revokes a lease or part of a lease under subsection (1) (b) , the lessee is entitled to compensation under Part 8 .
- (5) The Minister, by notice published in the *Gazette*, may notify the revocation of a lease or part of a lease.
- (6) A lessee may appeal to the Mining Tribunal against the Minister's decision to revoke the lease within 28 days after the date of the decision.
- (7) The revocation of a lease takes effect –
- (a) if an appeal is not made under subsection (6) , 28 days after publication of a notice under subsection (5) ; or
  - (b) if an appeal is made under subsection (6) and the Mining Tribunal makes an order affirming the decision, 10 days after the date of the order.

#### **100. Surrender of mining lease**

- (1) A lessee may apply to the Director for approval to surrender a lease or part of a lease.
- (2) An application for approval to surrender a lease or part of a lease is to be –
- (a) in an approved form; and
  - (b) accompanied by the lease; and
  - (c) accompanied by the prescribed fee; and
  - (d) lodged with the Registrar.
- (3) The Director may –
- (a) approve the application, with or without any conditions; or
  - (b) refuse to approve the application.
- (4) The Director, by notice in writing, is to notify the applicant of –
- (a) the approval of the application; or
  - (b) the refusal to approve the application and the reasons for the refusal.
- (5) If the Director approves an application on conditions, the Director, by notice in writing, is to notify the applicant when the Director is satisfied that all the conditions have been fulfilled.
- (6) If the Director approves an application, the lease, or the part of the lease, to which the application relates –
- (a) is, if the application is approved without conditions, surrendered on the date on which the Director approves the application; or
  - (b) is, if the application is approved with conditions, surrendered on the date on which the Director gives to the applicant notice under subsection (5) that the Director is satisfied that all the conditions have been fulfilled.

## ***Division 5 - Rent and royalty***

### **101. Rent**

- (1) A lessee must pay an annual rent to the Crown in respect of a lease at a prescribed rate.
- (2) Subsection (1) does not apply to a lessee who is the owner of land and minerals to which the lease relates.
- (3) Annual rent falls due on 1 July each year.
- (4) If the lessee fails to pay the annual rent by 1 January in the following year, or, if a day is prescribed for the purposes of this subsection, by that day, the Registrar is to cancel the lease and, by notice in writing, notify the lessee of the cancellation.
- (5) A lessee may appeal to the Minister within 28 days after receipt of the notice of cancellation.
- (6) The Minister may reinstate the lease if –
  - (a) an appeal is made within the period specified in subsection (5) ; and
  - (b) the Minister considers that reinstatement is warranted.

### **102. Royalty**

- (1) Subject to subsection (1B), a lessee must pay royalty at a prescribed rate in respect of a mineral sold under a lease.
  - (1A) Subject to subsection (1B), a licensee must pay royalty at a prescribed rate in respect of a mineral sold under a licence other than a geothermal production licence.
  - (1B) A lessee or a licensee must pay royalty calculated at a prescribed rate in respect of a mineral sold under a lease or licence for –
    - (a) the years commencing 1 July 1996, 1 July 1997 and 1 July 1998; and
    - (b) any year commencing on or after 1 July 1999.
  - (1C) The maximum rate of royalty payable under subsection (1B) is the prescribed maximum rate.
  - (1D) The holder of a geothermal production licence must pay a royalty at a prescribed rate in respect of geothermal energy produced under the licence.
- (2) Royalty is payable –
  - (a) in the case of –
    - (i) a lease or licence other than a geothermal production licence, from the date on which any mineral recovered under the lease or licence is sold; and
    - (ii) a geothermal production licence, from the date on which geothermal energy is produced under the licence; and
  - (b) by the prescribed date and in respect of the prescribed period.
- (3) A rate of royalty may be calculated –
  - (a) as a percentage of the value of the mineral recovered, or, in the case of a geothermal substance, produced from the substance; or
  - (b) as an amount based on specified measurement; or
  - (c) by reference to any other prescribed matter.
- (4) Interest is payable on any royalty not paid by the due date at the prescribed rate.
  - (4A) The Minister may waive all or part of any interest payable under subsection (4), vary that rate of interest or defer payment of all or part of that interest.
- (5) Royalty is payable –

- (a) in respect of any mineral recovered from, or any geothermal energy produced from a geothermal substance situated on, Crown land, to the Minister; and
  - (b) in respect of any mineral recovered from private land –
    - (i) to the owner of the land if the owner owns the mineral; or
    - (ii) to the owner of the mineral if the owner is not the owner of the land; or
    - (iii) to the Crown if the Crown owns the mineral.
- (6) For the purposes of calculating the rate of royalty, regulations may prescribe the manner in which –
- (a) the quantity of minerals sold, or of geothermal energy produced from a geothermal substance, is to be calculated; and
  - (b) the value of minerals sold, or of geothermal energy produced from a geothermal substance, is to be calculated.
- (7) The Minister may waive all or part of royalty payable, vary the rate of royalty payable or defer payment of all or part of royalty payable in respect of any mineral recovered under, or in respect of any geothermal energy produced from a geothermal substance under, a lease in respect of Crown land or private land if –
- (a) the mineral recovered, or the geothermal substance from which geothermal energy is produced, vests in the Crown; and
  - (b) the Minister is satisfied that the mineral recovered, or the geothermal energy produced from a geothermal substance, is being used for a community purpose approved by the Minister.
- (8) The owner of a mineral recovered from private land may waive all or part of royalty.
- (9) Royalty is not payable in respect of any mineral, recovered on Crown land or a State forest, which is required for the purposes of the Crown.

#### **102AA. Agreement to deferral of royalty**

- (1) A person may apply to the Treasurer for a deferral of the obligation to pay an amount of royalty that the person would otherwise be liable, or become liable, to pay under this Act to the Crown.
- (2) The Treasurer, after consulting with the Minister in respect of an application made by a person under subsection (1), may –
- (a) agree to defer the person's obligation to pay an amount of royalty that the person would otherwise be liable, or become liable, to pay under this Act; or
  - (b) refuse to agree to defer the obligation.
- (3) The Treasurer may only agree to defer a person's obligation to pay an amount of royalty under this Act if the relevant criteria for deferral specified in an order under subsection (4) have been satisfied.
- (4) The Treasurer may, by order, specify the criteria for deferral.
- (5) The Treasurer may agree to defer an obligation under subsection (2) unconditionally or on conditions.
- (6) The conditions on which the Treasurer may agree to defer under subsection (2) an obligation of a person to pay an amount of royalty include, but are not limited to including, any one or more of the following conditions:
- (a) a condition that the person enter into a payment plan, whereby the amount of the royalty is paid, in instalments, at intervals specified in the plan;
  - (b) a condition that the person pay, by a date, or dates, specified in the condition, interest, calculated in accordance with the rate specified in the condition, on the amount of royalty;
  - (c) a condition that the person pay the amount of the royalty by a date specified in the agreement.
- (7) An agreement under subsection (2) is to specify –
- (a) the lease or licence to which the agreement relates; and

- (b) the royalties to which the agreement relates or is to relate; and
- (c) the period for which the agreement is in force; and
- (d) any conditions on which the agreement is given.

(8) Subject to section 102AB(3) , an agreement under subsection (2) remains in force for the period specified in the agreement.

**102AB. Effect of, and revocation of, agreement to defer royalty, &c.**

(1) If the Treasurer agrees under section 102AA(2) to defer an obligation of a person to pay an amount of royalty under this Act, then, despite section 102 , the person is not liable to pay, except in accordance with the conditions of the agreement, the amount of royalty, until –

- (a) the end of the period for which the agreement is in force; or
- (b) the date specified in a condition of the agreement as the date on which the amount of the royalty is due; or
- (c) the agreement is revoked under subsection (3) –

whichever occurs first.

(2) If a person fails to comply with the conditions on which an agreement to defer his or her obligation to pay royalty is given under section 102AA(2) , the Treasurer may issue a notice of demand notifying the person of the failure and asking the person to show cause within 14 days after the date on which the notice is given to the person why the Treasurer should not revoke the agreement.

(3) The Treasurer may, after 14 days after the date on which a notice is given to a person under subsection (2) , revoke an agreement under subsection (1) .

**102A. Royalty rebate**

(1) The Minister, after consultation with the Treasurer, may grant a rebate on royalty payable subject to any conditions, and for any period, the Minister considers appropriate.

(2) A rebate on royalty payable is to be at a prescribed rate or in accordance with a prescribed method.

**103. Recovery and collection of royalty**

(1) Royalty and any interest on royalty payable under this Part are –

- (a) debts due to the Crown if the Crown owns the land or the minerals to which the royalty relates; or
- (b) debts due to the owner of land if the owner owns the mineral to which the royalty relates.

(2) The Minister, on payment of the prescribed fee by an owner of Category 1, 2 or 5 minerals is to arrange for the collection, on behalf of the owner, of royalty payable in respect of the minerals.

(3) . . . . .

***Division 6 - Miscellaneous matters***

**104. Termination of interest in mining lease**

Any interest in a lease terminates on the date on which the lease ceases to be in force or is revoked or surrendered.

**105. Removal of building, machinery and property**

(1) A former lessee or a person lawfully claiming under the lessee may enter land to remove any building, machinery or other property belonging to the former lessee from the land within 6 months after any interest of the former lessee in the lease is terminated.

(2) The Minister may require a former lessee to remove any building, machinery or other property at any time within the period referred to in subsection (1) if satisfied that the presence of the building, machinery or other

property is likely to interfere with the mining or rehabilitation of the land.

(3) A person must not remove any building, machinery or other property after the period referred to in subsection (1) without the written approval of the Director.

Penalty: Fine not exceeding 100 penalty units.

(4) Any building, machinery or other property on Crown land which has not been removed vests in the Crown.

(5) Any building, machinery or other property on private land which has not been removed vests in the owner of the land unless the former lessee and owner agree otherwise.

**106. Lease for storage and other purposes**

(1) A lessee or former lessee may, in an approved form, apply to the Minister for a lease in relation to land –

(a) to store any building, machinery, mining product or other property on the land; or

(b) to enable the land to be used to enable the applicant to access land to which a lease relates; or

(c) to enable work associated with mining on other land to be carried out; or

(d) to enable the rehabilitation of the land, where the land has been affected by mining operations on the other land.

(2) . . . . .

(3) The Minister may –

(a) grant the application with or without conditions and subject to any rent the Minister determines; or

(b) refuse to grant the application.

(4) The Minister may cancel a lease if the lessee fails to comply with, or contravenes, any condition of the lease.

(5) A person to whom a lease is granted under this section may also apply for a lease under section 70 .

(6) A lease issued under this section ceases to have effect on the granting of a lease under section 78 in respect of all or part of the land to which the lease under this section relates.

## **PART 5 - Prospecting Licences, Group Prospecting Licences and Fossicking Areas**

### ***Division 1 - Prospecting and group prospecting licences***

#### **107. Prospecting without licence prohibited**

A person must not prospect unless –

- (a) the person is the holder of a prospecting licence; or
- (b) the person is prospecting under and in accordance with a group prospecting licence; or
- (c) the person is a child who is supervised by the holder of a prospecting licence or a group prospecting licence.

Penalty: Fine not exceeding 100 penalty units.

#### **108. Application for prospecting licence or group prospecting licence**

- (1) A person may apply to the Director for a prospecting licence or a group prospecting licence.
- (2) An application is to –
  - (a) be in an approved form; and
  - (b) be accompanied by the prescribed fee; and
  - (c) contain any other prescribed details; and
  - (d) be lodged with the Registrar.

#### **109. Granting application for prospecting licence or group prospecting licence**

- (1) The Director may –
  - (a) grant the application for a licence; or
  - (b) refuse to grant the application.
- (2) The Director, by notice in writing, must notify an applicant of –
  - (a) the grant of the application; or
  - (b) the refusal to grant the application and the reasons for the refusal.

#### **110. Conditions of prospecting licence or group prospecting licence**

- (1) The Director may grant an application for a licence subject to any condition the Director considers appropriate.
- (2) The Director may vary or rescind any condition of the licence.
- (3) Without limiting the generality of subsection (1), an application for a prospecting licence is granted subject to the condition that the holder of the licence must supervise the activities of any child who accompanies the holder while fossicking by the holder or the child occurs.
- (4) Without limiting the generality of subsection (1), an application for a group prospecting licence is granted subject to the conditions that the holder of the licence must supervise the activities of any person who accompanies the holder while fossicking occurs on the tour by the holder of the licence or persons on, or conducting, the tour.

#### **111. Prospecting licence and group prospecting licence**

- (1) On granting an application for a licence, the Director is to issue a licence.

- (2) A licence is to –
  - (a) be issued to an individual; and
  - (b) be in an approved form; and
  - (c) specify the period for which it is in force.

**112. Authority of prospecting licence and group prospecting licence**

- (1A) In this section, a reference to the holder of a licence includes a reference to –
  - (a) a child who is supervised by the holder of such a licence; and
  - (b) in the case of a group prospecting licence, any person accompanying a tour operated by the holder of the licence.
- (1) The holder of a licence may prospect on –
  - (a) any Crown land which is not subject to a mineral tenement; or
  - (b) any Crown land which is subject to a mineral tenement with the written consent of the tenement holder; or
  - (c) any other land which is subject to a mineral tenement with the written consent of the tenement holder and the owner or occupier of the land; or
  - (d) any private land with the consent of the owner or occupier.
- (2) A licence authorises the licensee –
  - (a) to map any area of land to which the licence relates; and
  - (b) to collect rock or mineral samples by hand; and
  - (c) to collect water and soil samples by hand; and
  - (d) to take geophysical measurements using hand-held instruments.
- (3) The owner or occupier of land or the holder of a mineral tenement may –
  - (a) give consent subject to any condition; or
  - (b) withdraw that consent at any time.
- (4) A holder of a mineral tenement who refuses to give consent for the holder of a licence to prospect on land which is subject to the mineral tenement must give that person written reasons for the refusal.

**113. Term of prospecting licence and group prospecting licence**

A licence, unless revoked earlier, is in force for a period, not exceeding 5 years, the Director determines and specifies in the licence.

**114. Revocation of prospecting licence and group prospecting licence**

The Director may revoke a licence if the licensee fails to comply with, or contravenes –

- (a) any provision of this Act; or
- (b) any condition of the licence.

**115. Reports and work program**

The Director may require the holder of a licence to provide the Director with–

- (a) a work program relating to any prospecting carried out under that licence; and
- (b) reports relating to that prospecting.

## 116. Fossicking areas

- (1) The Minister, by order, may declare any area to be a fossicking area if the Minister is satisfied that –
  - (a) no mineral tenement exists in respect of that area; or
  - (b) if a mineral tenement exists in respect of that area, fossicking in that area is not likely to interfere to any substantial degree with anything done, or likely to be done, under that mineral tenement.
- (2) The Minister may, in an order under subsection (1) declaring an area to be a fossicking area, specify the conditions subject to which a person may fossick in the area.
- (3) Any person may fossick in an area that is declared by an order under subsection (1) to be a fossicking area.
- (4) A person fossicking in an area declared by an order under subsection (1) to be a fossicking area must not, while in that area, contravene the conditions specified in the order.

Penalty: 100 penalty units.

## **PART 6 - Drill Core and Cutting**

### ***Division 1 - Exploration and retention licences***

#### **117. Notification by licensee of drill core and cutting recovered**

- (1) The holder of an exploration licence, special exploration licence, production licence or retention licence, by notice in writing, is to notify the Director of any drill core or cutting recovered from land in the licence area.
- (2) A notice is to –
  - (a) identify, to the satisfaction of the Director, the place from which any drill core or cutting was recovered; and
  - (b) contain the date on which it was recovered.

#### **118. Disposal by licensee**

A licensee must not dispose of a drill core or cutting or that part of it which is not required for assay or other geoscientific investigation except in accordance with any written directions of the Director.

Penalty: Fine not exceeding 100 penalty units.

#### **119. Deposit by licensee of drill core or cutting**

- (1) A licensee, unless the drill core or cutting has been disposed of, is to deposit with the Director, at the licensee's expense, the drill core or cutting recovered from land as soon as practicable after the land ceases to be –
  - (a) in a licence area; or
  - (b) the subject of an application for the grant of an exploration licence, a special exploration licence, a production licence, a retention licence or a lease.
- (2) The Director may require the licensee to deposit, in an approved container or approved packaging, with the Director, at the licensee's expense, a drill core or cutting which is stored under section 123 .

### ***Division 2 - Mining leases***

#### **120. Notification by lessee of drill core and cutting recovered**

- (1) A lessee, by notice in writing, is to notify the Director of any drill core or cutting recovered from a hole of more than 15 metres in length drilled on land within the lease area.
- (2) A notice is to –
  - (a) identify the location of the drill hole; and
  - (b) give a detailed account of the material drilled or obtained; and
  - (c) contain any other information the Director requires.

#### **121. Disposal and deposit by lessee**

- (1) A lessee must not dispose of a drill core or cutting stored under section 123 unless the lessee has given 3 months' notice in writing to the Director.

Penalty: Fine not exceeding 100 penalty units.

- (2) The Director may require the lessee to deposit, in an approved container or approved packaging, with the Director, at the lessee's expense, a drill core or cutting which is stored under section 123 .

#### **122. Deposit by lessee of drill core or cutting**

A lessee, unless the drill core or cutting has been disposed of, is to deposit with the Director, at the lessee's expense, the drill core or cutting recovered from land as soon as practicable after the land ceases to be –

- (a) in a lease area; or
- (b) the subject of an application for the grant of a retention licence.

### ***Division 3 - Miscellaneous matters***

#### **123. Labelling, storing and preserving of drill core or cutting**

- (1) A licensee or lessee is to label a drill core or cutting or that part of it which is not required for assay or other geoscientific investigation.
- (2) A licensee or lessee is to label, store and preserve a drill core or cutting in accordance with any requirements the Director determines.
- (3) This section does not apply if a drill hole is sunk in surface gravel or alluvial ground.

#### **124. Inspection of drill core and cutting**

- (1) A licensee or lessee is to make available any drill core or cutting stored under section 123 for inspection by the Director or any other person authorised by the Director.
- (2) The Director or other person while inspecting a drill core or cutting may take samples of the drill core and cutting for assay or other geoscientific investigation.
- (3) The Director is to ensure that any information obtained as a result of an assay or investigation is not published unless –
  - (a) the licensee or lessee consents; or
  - (b) the Minister otherwise directs.
- (4) Any information obtained as a result of an assay or geoscientific investigation is exempt from the provisions of the Right to Information Act 2009 .

#### **125. Library of drill core and cuttings**

- (1) The Director is to maintain a library of drill core and cuttings deposited with the Director.
- (2) The Director may dispose of any drill core or cutting as the Director thinks fit.

#### **126. Examination of drill core or cutting**

- (1) Subject to subsections (2) and (3) , any person may examine any drill core or cutting deposited with the Director at any place the Director thinks fit during normal business hours.
- (2) A person must not examine a drill core or cutting taken from a licence area and stored with the Director in accordance with a direction under section 118 –
  - (a) while the land from which it was taken –
    - (i) remains in the licence area; or
    - (ii) is the subject of a retention licence or lease without interruption from the date on which the drill core or cutting was taken; or
    - (iii) is the subject of an application for a retention licence or a lease; and
  - (b) without the written approval of the licensee, lessee or the applicant.
- (3) A person may not examine a drill core or cutting taken from a lease area and stored in accordance with any requirements of the Director under section 123 –
  - (a) while the land from which it was taken –
    - (i) remains in the lease area; or

(ii) is the subject of a retention licence without interruption from the date on which the drill core or cutting was taken; or

(iii) is the subject of an application for a retention licence; and

(b) without the written approval of the lessee, licensee or applicant.

## **PART 7 - Claims and Appeals**

### ***Division 1 - Jurisdiction and proceedings***

#### **127. Mining Tribunal**

- (1) There is established a Mining Division of the Magistrates Court of Tasmania to be known as the Mining Tribunal.
- (2) For the purposes of exercising its jurisdiction, the Mining Tribunal is to be constituted by a magistrate.

#### **128. Jurisdiction of Mining Tribunal**

The Mining Tribunal has jurisdiction to hear and determine proceedings relating to any of the following matters:

- (a) the area, dimension or boundary of land which is subject to a mineral tenement;
- (b) the right to the possession or occupation of land under a licence or lease;
- (c) the right to the use and enjoyment of water for exploring or mining;
- (d) trespass or encroachment on, or injury to, land which is subject to a mineral tenement;
- (e) any demand for debt or damages arising out of prospecting, exploring or mining;
- (f) any demand for specific performance of any contract relating to a mineral tenement or mining;
- (g) the right to any mineral in, or to be recovered from, any land which is subject to mineral tenement and the rights under, or arising out of, any contract relating to any such mineral;
- (h) any transfer or disposition of, or charge on, a mineral tenement;
- (i) any matter concerning –
  - (i) any partnership or joint venture relating to a mineral tenement, prospecting, exploring or mining; or
  - (ii) the existence, formation and dissolution of that partnership or joint venture; or
  - (iii) the taking of accounts in connection with that partnership or joint venture; or
  - (iv) the contributions of the partners as between themselves; or
  - (v) the determination of questions arising between the partners;
- (j) contributions by or between persons holding joint or several interests in a mineral tenement towards rent or other expenses in relation to a mineral tenement;
- (k) trespass or encroachment on land as a result of prospecting, exploring or mining;
- (l) trespass or encroachment on, injury to or any matter affecting roads, railways or other property constructed, held or occupied under this Act;
- (m) the working or management of land which is subject to a mineral tenement;
- (n) all rights claimed in, under or in relation to a mineral tenement or purported mineral tenement;
- (o) any interest in, or affecting, a mineral tenement;
- (p) the unauthorised removal of any mineral from land which is subject to a mineral tenement;
- (q) the refusal of the holder of an exploration licence to give consent to the holder of a prospecting licence or a group prospecting licence to prospect on land which is subject to the exploration licence;
- (r) the infringement of, or interference with, any right under this Act;
- (s) the amount of compensation payable for loss or damage caused to land;

- (t) any dispute relating to a mineral tenement or former mineral tenement between the holder of the mineral tenement and the owner or occupier of land;
- (u) any dispute relating to a mineral tenement or former mineral tenement in respect of private land;
- (ua) any dispute as to the amount of royalty payable under this Act;
- (v) any appeals and objections under this Act.

### **129. Claims**

- (1) A person may lodge a claim with the Registrar in relation to a matter referred to in section 128 other than an appeal under this Act.
- (2) The Registrar is to refer the claim to the Director within 7 days after it is lodged.

### **130. Claim resolution**

- (1) The Director is to attempt to resolve any claim lodged under section 129 .
- (2) Any party to a claim may require the Director to attempt to resolve the claim within 28 days.
- (3) A resolution of a claim to the satisfaction of all parties is final and binding on the parties.
- (4) The Director is to prepare, and the Registrar is to keep, a record of the terms of the resolution of a claim.
- (5) A record of the terms of the resolution of a claim is conclusive evidence of those terms.
- (6) The Director is to notify the Registrar if the Director is unable to resolve the claim to the satisfaction of all parties.
- (7) The Registrar is to refer a claim to the Mining Tribunal within 7 days of receiving the notification.

### **131. Hearings and proceedings**

- (1) The practice and procedure of the Mining Tribunal is to be in accordance with the rules of court applicable to the Magistrates Court (Civil Division).
- (1A) The Mining Tribunal is to hear and determine proceedings relating to an appeal under this Act –
  - (a) by taking into account only the evidence and documents the Minister relied on when he or she made the decision under the Act to which the proceedings relate; or
  - (b) by way of a new hearing if both parties to the appeal agree.
- (2) The Mining Tribunal –
  - (a) is not bound by the rules of evidence; and
  - (b) must observe the principles of natural justice.
- (3) Any evidence is to be taken on oath or affirmation and recorded.
- (4) A party to any proceedings may appear before the Mining Tribunal –
  - (a) in person; or
  - (b) by representation by an Australian legal practitioner if–
    - (i) the other parties agree; or
    - (ii) the Mining Tribunal grants leave.
- (5) Proceedings are not invalid by reason only of –
  - (a) any inaccurate description of a person or place in any document; or
  - (b) any defect or error in any document.

### **132. Witnesses**

A person must not fail to appear as a witness at a hearing when summoned.

Penalty: Fine not exceeding 10 penalty units.

### **133. Orders of Mining Tribunal**

- (1) The Mining Tribunal may make any order it considers appropriate –
  - (a) to determine any claim brought before it; or
  - (b) to enforce any order previously made.
- (2) A certified copy of an order is to be –
  - (a) served on a person; or
  - (b) if the person cannot be found within 7 days after the order is made, published in a newspaper generally circulating in the area to which the order relates.
- (3) A person must not fail to comply with, or contravene, an order of the Mining Tribunal.

Penalty: Fine not exceeding 50 penalty units.

- (4) The Mining Tribunal has the same powers in relation to the enforcement of its judgments and orders as the Supreme Court has in relation to its judgments and orders.
- (5) An order of the Mining Tribunal for the payment of any money –
  - (a) is taken to be a judgment of the Magistrates Court (Civil Division); and
  - (b) is enforceable accordingly.

### **134. Ejection or seizure**

- (1) If a person fails to comply with an order for the delivery to any other person of any thing, the Mining Tribunal, by warrant, may authorise any police officer or person named in the warrant –
  - (a) to eject the person from a mining tenement; or
  - (b) to seize the thing.
- (2) The costs and expenses incidental to the warrant and any action taken under the warrant are debts –
  - (a) due by the person failing to comply with, or contravening, the order to the person to whom delivery was ordered; and
  - (b) recoverable in the Magistrates Court (Civil Division).

### **135. Costs**

The Mining Tribunal may award or apportion costs in any proceedings.

### **136. Register of claims and decisions**

- (1) The Mining Tribunal is to keep a register of –
  - (a) the particulars of each claim; and
  - (b) any decision and order it makes.
- (2) On payment of the prescribed fee, a person may –
  - (a) inspect the register; and
  - (b) obtain a copy of an entry in the register.

### **137. Questions of law**

- (1) The Mining Tribunal, at the request of any person or of its own initiative, may refer any question of law to the Supreme Court for its opinion.

(2) The Mining Tribunal must not make any decision or order in respect of a matter on which a question has been referred until the Supreme Court gives its opinion on the question.

(3) The Supreme Court may make any order as to the costs of, and incidental to, the hearing of the question.

### **138. Transfer of proceedings into Supreme Court**

(1) A party to any proceeding under this Part may apply to the Supreme Court or a judge for the proceeding to be transferred to the Supreme Court.

(2) An application may be made even if the proceedings are wholly or partly beyond the jurisdiction of the Supreme Court.

(3) The Supreme Court or a judge may order that proceedings be transferred to the Supreme Court if satisfied that it is desirable to do so.

### **139. Transfer of proceedings to Mining Tribunal**

(1) A court in which proceedings are taken in respect of a matter over which the Mining Tribunal has jurisdiction may –

(a) stay the proceedings; and

(b) make an order transferring the proceedings to the Mining Tribunal.

(2) An order under subsection (1) (b) may make provision as to the costs of, and incidental to, the initial proceedings.

## ***Division 2 - Appeals***

### **140. Appeals**

(1) Subject to section 143, a party to proceedings under this Part may appeal to the Supreme Court against an order of the Mining Tribunal.

(2) An appeal –

(a) is to be made in writing within 28 days after the order is made; and

(b) is to state the grounds of the appeal.

(3) An appellant is to serve a copy of the notice –

(a) on the Mining Tribunal; and

(b) on each other party to the proceedings.

(4) The Mining Tribunal is to transmit to the Supreme Court all the evidence, notes, reasons and proceedings in relation to the subject matter of the appeal.

(5) A notice of appeal does not operate as a stay of proceedings before the Mining Tribunal but the Supreme Court, on the application of any party, may make an order in respect of –

(a) the stay of proceedings; or

(b) the suspension of mining; or

(c) the appointment of receivers.

(6) An order staying proceedings lapses on the withdrawal or abandonment of an appeal.

### **141. Hearing of appeal**

An appeal from the Mining Tribunal is to be determined –

(a) on the proceedings of the Mining Tribunal; or

(b) on the order of the Supreme Court by way of a new hearing; or

(c) on the agreement of the parties by way of a new hearing.

**142. Withdrawal and dismissal of appeal**

- (1) An appellant may withdraw an appeal at any time.
- (2) If an appeal is withdrawn or abandoned, the respondent may apply to a judge for the appeal to be dismissed.
- (3) A judge may –
  - (a) dismiss the appeal; and
  - (b) make an order as to costs of, or incidental to, the appeal.

**143. Exceptions to rights of appeal**

There is no right of appeal against an order of the Mining Tribunal in respect of –

- (a) any proceeding in which the parties agree that the order of the Mining Tribunal is final; or
- (b) any matter for which it is provided that the order of the Mining Tribunal is final.

## **PART 8 - Compensation**

### ***Division 1 - Private land***

#### **144. Compensation for compensable loss**

- (1) Compensation is payable by the licensee or lessee to the owner or occupier of private land or a holder of a forestry right for any compensable loss suffered or likely to be suffered as a consequence of exploration or mining under the licence or lease.
- (2) Compensation is not payable –
  - (a) for the value of any mineral in or under the surface of land comprised in a licence or lease; or
  - (b) in respect of any land which became private land after the commencement of work or mining on that land under the licence or lease.
- (3) Compensation is payable at a rate –
  - (a) specified in a compensation agreement; or
  - (b) if there is no agreement, determined by the Mining Tribunal under section 150 .
- (4) The amount of compensation payable –
  - (a) is not affected by any subsequent change in the ownership or occupancy of the land; and
  - (b) must not be greater if the land is owned and occupied by different persons than if it is not.

#### **145. Compensation agreement for compensable loss**

- (1) The holder of a mineral tenement or an applicant for a mineral tenement may enter into an agreement with the owner or occupier of land or a holder of a forestry right as to the amount of compensation payable under section 144 .
- (2) A compensation agreement is to include the following matters:
  - (a) a description of the proposed work or mining and the location and area of the work or mining;
  - (b) the anticipated date of commencement and anticipated duration of the proposed work or mining;
  - (c) the agreed point or points of entry onto and exit from the land for the purposes of the work or mining;
  - (d) the number and type of vehicles, plant and equipment involved;
  - (e) a description of the facilities and sanitary arrangements to be provided on the land.
- (3) A compensation agreement under subsection (1) entered into by the holder of a mineral tenement or an applicant for a mineral tenement, and an owner or occupier of land, and in force under that subsection, is binding on a subsequent owner or occupier of the land.

#### **146. Claim for compensation for licences**

A claim for compensation in respect of an exploration licence or retention licence for compensable loss which is not the subject of a compensation agreement is to be made not later than 3 months after whichever of the following occurs last:

- (a) work or mining which caused the compensable loss ceases;
- (b) the licence under the authority of which the compensable loss occurred ceases to be in force;
- (c) the affected land ceases to be occupied.

### ***Division 2 - Crown land***

#### **147. Compensation for damage to improvements**

(1) Compensation is payable by a licensee or lessee to the Crown for any damage to any improvement on the land carried out by or for the Crown if the improvement was carried out –

- (a) before the lease or licence was issued; or
- (b) after consultation with the licensee or lessee.

(2) Compensation is payable by a licensee or lessee to a Crown lessee or Crown licensee or a holder of a forestry right for any damage to any improvement on the land if–

(a) the improvement was approved under the Crown Lands Act 1976 , the Forest Management Act 2013 or the Living Marine Resources Management Act 1995 ; and

(b) the improvement was carried out–

- (i) before the lease or licence was issued; or
- (ii) after consultation with the licensee or lessee.

(3) This section applies –

(a) to Crown land if a Crown licence or Crown lease in respect of that land has been cancelled because of the damage; and

(b) to a person who has ceased to be a licensee or lessee after the damage has occurred.

(4) Compensation is payable at a rate –

(a) agreed to by the parties under section 148 ; or

(b) if there is no agreement, determined by the Mining Tribunal under section 150 .

#### **148. Compensation agreement for damage to improvement**

(1) A licensee or lessee may enter into an agreement with a Crown lessee or Crown licensee or a holder of a forestry right as to the amount of compensation payable under section 147 .

(2) A licensee or lessee is to lodge a copy of the agreement with the Director.

### ***Division 3 - Public purpose***

#### **149. Compensation for revocation due to public purpose**

(1) Compensation is payable by the Crown to the holder of a lease which is revoked under section 99 (1) (b) or a production licence that is revoked under section 67Y(1)(b) .

(2) The holder of the lease may enter into an agreement with the Crown as to the amount of compensation payable.

### ***Division 4 - General provisions***

#### **150. Determination of compensation**

(1) If there is no compensation agreement, any person who is the owner or occupier of land, the Crown lessee or Crown licensee, a holder of a forestry right, the holder of a mineral tenement or an applicant for a mineral tenement may apply to the Mining Tribunal to determine the rate of compensation that is payable, or the amount of compensation that is payable, under this Part in regard to land in which that person has an estate or interest.

(2) In determining the amount of compensation payable, the Mining Tribunal is to take into account any amount previously paid for compensation.

#### **151. Disputes as to compensation payable**

(1) A party to a compensation agreement may apply to the Mining Tribunal to determine a dispute arising out of the agreement.

(2) The Mining Tribunal may determine a dispute only if satisfied, after considering evidence put to it, that the party has attempted to settle the dispute but has been unable to do so because –

- (a) the other party has refused to negotiate a settlement; or
- (b) both parties are unable to settle the dispute.

## **PART 9 - Geoscientific Investigation and Research**

### ***Division 1 - Powers relating to investigation and research***

#### **152. Contracts for investigation and research**

The Minister may –

- (a) enter into any contract relating to investigation and research of the geology in this State; and
- (b) do anything necessary or convenient for the purpose of this Part.

#### **153. Geoscientific investigation and research**

The Minister may –

- (a) devise plans for investigation and research of the geology in this State; and
- (b) arrange for any other person to carry out the investigation and research.

#### **154. Purchase of plant and equipment**

- (1) The Minister may purchase any plant, machinery, vehicle or equipment necessary or desirable for the purposes of this Part.
- (2) The Minister may lease any plant, machinery, vehicle or equipment on any terms and conditions the Minister considers appropriate.

#### **155. Surveys**

The Minister may cause to be carried out any geological, geophysical, geochemical, topographical or other survey necessary or desirable for the purposes of this Part.

#### **156. Research**

The Minister may promote or undertake any research or inquiry relating to –

- (a) the treatment of any mineral or earth; and
- (b) the marketing of any mineral or earth; and
- (c) the remediation of any land affected by mining.

#### **157. Drilling operations**

(1) The Minister may authorise any person to carry out –

- (a) percussion drilling operations; or
- (b) diamond drilling operations; or
- (c) any other boring operations.

(2) Any operations carried out on land administered by the Minister responsible for the administration of the National Parks and Reserves Management Act 2002 are to be carried out in accordance with any management plan in respect of that land.

#### **158. Appointment of employees**

Subject to and in accordance with the State Service Act 2000, persons may be appointed or employed for the purposes of this Part.

### ***Division 2 - Financial provisions***

#### **159. Geoscientific Investigation and Research Trust Fund**

- (1) There is established in Treasury a Geoscientific Investigation and Research Trust Fund.
- (2) The Geoscientific Trust Fund consists of –
  - (a) any money appropriated by Parliament for the purpose of this Part; and
  - (b) any money received for the hire of any plant, machinery, vehicle or equipment under this Part; and
  - (c) any other money received for the purpose of this Part; and
  - (d) any money the Treasurer directs to be paid into the Geoscientific Trust Fund.

**160. Application of Geoscientific Trust Fund**

Any money in the Geoscientific Trust Fund is to be applied for –

- (a) any specified geoscientific investigation or research; or
- (b) any survey carried out under section 155 ; or
- (c) any inquiry under section 156 ; or
- (d) any application for financial assistance; or
- (e) any other purpose the Minister directs.

**161. Financial assistance**

- (1) A person may apply to the Minister for financial assistance in carrying out any investigation and research under this Part.
- (2) An application is to –
  - (a) be in writing; and
  - (b) contain any details the Minister requires; and
  - (c) be lodged with the Director.
- (3) The Minister may –
  - (a) grant the application, subject to any condition the Minister considers appropriate; or
  - (b) refuse to grant the application.
- (4) The Minister, by notice in writing, must notify the applicant of –
  - (a) the grant of an application; or
  - (b) the refusal to grant the application and the reasons for the refusal.

## PART 9A - Landslip Areas

### 161A. Interpretation

In this Part –

*A landslip area* means an area of land declared under section 161B(1) to be an A landslip area;

*affected owner* means an owner of land that is likely to be affected by the making of an order under section 161B(1) ;

*B landslip area* means an area of land declared under section 161B(1) to be a B landslip area;

*landslip area* means an area of land declared under section 161B(1) to be an A landslip area or B landslip area.

### 161B. Declaration of landslip areas

- (1) The Minister on the recommendation of the Director, by order, may declare an area of a municipal area to be an A landslip area or a B landslip area.
- (2) The Director may make a recommendation under subsection (1) if satisfied that the specified area is subject to earth movement because of inherent instability.
- (3) The Director must give the council of the relevant municipal area written notice of his or her intention to recommend the making of an order under subsection (1) .
- (4) The council of the relevant municipal area, within 30 days after receiving the Director's notice, may notify the Director in writing that the council objects to the intended recommendation.
- (5) The Director must give each affected owner within the proposed landslip area written notice of –
  - (a) his or her intention to recommend the making of the order; and
  - (b) the effect that the making of the order would have; and
  - (c) the affected owner's right to object to the intended recommendation.
- (6) An affected owner, within 30 days after receiving the Director's notice, may notify the Director in writing that the affected owner objects to the intended recommendation.
- (7) A notice under subsection (3) or (5) must adequately identify the proposed landslip area.
- (8) Before making a recommendation under subsection (1) , the Director must –
  - (a) consider each objection notified under subsection (4) or (6) ; and
  - (b) notify each objecting affected owner, and the relevant council, of the outcome of the objection.
- (9) Subsections (3) , (4) , (5) , (6) , (7) and (8) do not apply if the Director reasonably considers that an order under subsection (1) should be made urgently.
- (10) An order under subsection (1) takes effect on the day specified in the order, being a day that is at least 30 days after its making is notified in the *Gazette*.

### 161C. Registration of landslip area order

- (1) As soon as practicable after making an order under section 161B , the Minister must cause it to be registered by –
  - (a) for land in the landslip area that is under the Land Titles Act 1980 , lodging with the Recorder of Titles a copy of the order and a statement signed by the Minister specifying the titles affected by the order; and
  - (b) for other land in the landslip area, filing with the Recorder of Titles a certified copy of the order under the Registration of Deeds Act 1935 as if it were an instrument to which the Minister is a party.

- (2) The Recorder of Titles must record the particulars of an order registered under subsection (1)(a) on all titles to land affected by the order.
- (3) An order recorded on a title to land is an interest for the purposes of section 40 of the Land Titles Act 1980 .
- (4) The Director must –
  - (a) endorse a certified copy of an order registered under subsection (1)(b) with a statement that the order has been registered under this section; and
  - (b) keep it and all other relevant documents relating to the order.

**161D. Revocation or amendment of landslip area order**

- (1) The Minister on the recommendation of the Director may, by order –
  - (a) revoke an order made under section 161B ; or
  - (b) amend the order by –
    - (i) changing the category of the landslip area; or
    - (ii) altering the area of the landslip area.
- (2) The Minister must cause an order under subsection (1) to be registered in accordance with section 161C as soon as practicable after making the order.
- (3) The provisions of sections 161B and 161C apply to an order under this section by which –
  - (a) land that is not part of a landslip area becomes part of one; or
  - (b) land in a B landslip area becomes part of an A landslip area.

## PART 10 - Miscellaneous

### *Division 1 - Matters relating to licences, leases and mining*

#### **161E. Director to publish notice where licence ceases to apply to land**

(1) In this section –

*Department* means the department responsible, in relation to the administration of this Act, to the Minister to whom the administration of this Act is assigned;

*relevant licence* means an exploration licence, a special exploration licence or a retention licence.

(2) As soon as practicable after a relevant licence ceases to be in force, the Director must ensure that a notice, specifying –

(a) that the licence has ceased to be in force on a date specified in the notice; and

(b) the area of land to which the licence related; and

(c) that applications may be made under this Act for a lease, or a licence, in relation to a mineral, or a category of minerals, to which the licence related, on or after the date specified for that purpose in the notice –

is published on a website of the Department, and remains on that website until at least the expiry of the date specified in accordance with paragraph (c) .

(3) The date specified for the purposes of subsection (2)(c) in a notice in relation to a relevant licence is to be a day that is at least 2 months after the area of land to which the notice relates is no longer subject to the relevant licence.

#### **161F. Authorisation to conduct geological investigation**

(1) An applicant for a licence, permit or lease under the Crown Lands Act 1976 or the Forest Management Act 2013 may apply to the Director for an authorisation to conduct a geological investigation.

(2) The Director may, on the application of a person under subsection (1) –

(a) issue to the person an authorisation to conduct a geological investigation; or

(b) refuse to issue such an authorisation to the person.

(3) The Director may only issue an authorisation if the Director is satisfied that the authorisation is required to enable the carrying out of works for the purposes of collecting data to enable the determination by the Minister of whether all or part of the area of land has significant prospectivity.

(4) An authorisation is issued subject to –

(a) the conditions specified in subsection (5) ; and

(b) any other conditions that the Director thinks fit and specifies on the authorisation.

(5) It is a condition of an authorisation that –

(a) work is to be conducted under the authorisation in accordance with the Mineral Exploration Code of Practice; and

(b) work is only to be conducted under the authorisation if the work is approved by the Director under section 161G(3) .

(6) The conditions that the Director may specify on an authorisation include, but are not limited to including, a condition that the person must provide to the Director a security deposit in the form and the amount required by the Director.

(7) An authorisation issued to a person in relation to an area of land specified in the authorisation authorises the person, any employees or agents of the person and any other person authorised by the person, to, in accordance with the conditions of the authorisation –

(a) conduct on that land, in accordance with the Mineral Exploration Code of Practice, works, specified in that code, that are approved by the Director under section 161G(3) ; and

(b) enter Crown land within that area for the purposes of conducting the works referred to in paragraph (a) .

(8) The holder of an authorisation must ensure that the conditions of the authorisation, and of any approval under section 161G(3) , are complied with by the holder and a person acting under a contract of service, or a contract for services, with the holder of the authorisation.

Penalty: Fine not exceeding 100 penalty units.

#### **161G. Works approval under authorisation to conduct geological investigation**

(1) In this section –

*authorisation* means an authorisation issued under section 161F that is in force.

(2) A person who holds an authorisation may, on the approved form, apply to the Director for approval to carry out works under the authorisation.

(3) The Director may approve, unconditionally or on conditions, an application made under subsection (2) .

(4) The Director may only approve works under subsection (3) if –

(a) the works are of a kind specified in the Mineral Exploration Code of Practice; and

(b) the works are for the purposes of collecting data to enable the determination by the Minister of whether all or part of the area of land has significant prospectivity.

#### **162. Priority between applications for leases and licences**

If applications for a lease and an exploration licence, retention licence or special exploration licence are received on the same day, the Minister is to determine the priority of applications.

#### **162A. Licences not personal property for purposes of Personal Property Securities Act 2009 of the Commonwealth**

A licence in force under this Act is not personal property for the purposes of section 8(1)(k) of the Personal Property Securities Act 2009 of the Commonwealth.

#### **163. Fossil sites**

(1) The Minister, by order, may declare any area to be a fossil site.

(2) A person must not collect any fossil from a fossil site –

(a) without the Director's written approval; or

(b) otherwise than in accordance with that approval.

Penalty: Fine not exceeding 50 penalty units.

(3) The Director may give an approval subject to any terms and conditions.

#### **164. Speleothems**

(1) A person must not disturb, collect or remove any speleothem from a cave –

(a) without the Director's written approval; or

(b) otherwise than in accordance with that approval.

Penalty: Fine not exceeding 50 penalty units.

(2) The Director may give an approval subject to any terms and conditions.

#### **164A. Areas of geological significance**

(1) The Minister, by order, may declare any area to be an area of geological significance.

(2) A person must not fossick, prospect, explore or carry out mining operations in an area declared under subsection (1) to be an area of geological significance –

- (a) without the Director's written approval; or
- (b) otherwise than in accordance with that approval.

Penalty: Fine not exceeding 50 penalty units.

(3) The Director may give an approval subject to any terms and conditions.

#### **164B. Director may require seller of minerals from construction activities to provide information**

(1) The Director may issue to a person who sells minerals that have been obtained from construction activities, or works associated with construction activities, a notice requiring the person to provide to the Director, within the period specified in the notice, information, specified in the notice, in relation to the sale.

(2) A person to whom a notice is issued under subsection (1) must comply with the notice.

Penalty: 100 penalty units.

#### **165. Aerial geophysical surveys**

(1) A person must not carry out or cause to be carried out any aerial geophysical surveys over land without the Director's approval.

Penalty: Fine not exceeding 500 penalty units.

(2) The Director may require any person to provide the Director with a copy of any data or report of any survey carried out under subsection (1) .

(3) The person who carries out a survey under subsection (1) must offer to sell or give the holder of a mineral tenement in respect of land to which the survey relates copies of any data and reports of that survey.

Penalty: Fine not exceeding 100 penalty units.

(4) The Minister, on the advice of the Director, is to determine any dispute relating to the selling or giving of data and reports under subsection (3) .

#### **166. Encroachment on adjoining land**

(1) If the holder of a mineral tenement needs to encroach on, or make use of, any adjoining land in order to exercise any rights under the mineral tenement, the holder may –

- (a) apply for the appropriate mineral tenement, if a mineral tenement is not already in force in respect of that land; or
- (b) apply to the Mining Tribunal for an order permitting the encroachment or use of that land, if a mineral tenement is in force in respect of that land.

(2) The Mining Tribunal may make the order subject to any conditions.

#### **167. Encroachment of water**

(1) Any person may apply to the Mining Tribunal for an order authorising a suitably qualified person to survey or inspect any land on which water has encroached, or is likely to encroach, as a result of any mining operations.

- (2) The Mining Tribunal may make the order subject to any conditions.
- (3) A person authorised by the order may enter on any land, mine or building to –
  - (a) make any survey or inspection; and
  - (b) use any engines, machinery and appliances that are in the mine.
- (4) The owner or person in charge of a mine must not hinder, obstruct or delay a person from exercising any powers under subsection (3) .

Penalty: Fine not exceeding 50 penalty units.

- (5) A person making a survey or inspection must not divulge any confidential information acquired in the course of the survey or inspection unless the person –
  - (a) is required also to give effect to the order of the Mining Tribunal; or
  - (b) has the written consent of the owner of the mine; or
  - (c) is required to do so in any legal proceedings.

Penalty: Fine not exceeding 50 penalty units.

#### **168. Use of surface water**

A licensee may use surface water sufficient for drilling if drilling is part of a work program.

#### **169. Construction of roads**

The Minister may cause to be constructed, reconstructed, repaired and maintained any road, track, river crossing or other means of communication the Minister considers necessary or convenient for the purposes of this Act.

#### **170. Installation of buildings and facilities**

The Minister may cause to be erected, installed and maintained any building, structure, plant, machinery, equipment and facility necessary or convenient for the purposes of this Act.

#### **171. Entry on land**

- (1) A person employed by the Department for the purposes of any geological, geophysical or other scientific investigation may –
  - (a) enter on land, with or without assistants, vehicles or drilling machinery; and
  - (b) open fences and gates; and
  - (c) dig or drill holes; and
  - (d) let off explosives; and
  - (e) do anything else necessary for those purposes.
- (2) Before exercising any power under subsection (1) , a person must –
  - (a) obtain the written authorisation of the Director; and
  - (b) give the occupier reasonable notice of the intention to do so.
- (3) The Crown must compensate the owner or occupier for any damage caused in the exercise of any power under subsection (1) for an amount –
  - (a) agreed between it and the owner or occupier; or
  - (b) if there is no agreement, determined as a disputed claim for compensation under the Land Acquisition Act 1993 .

#### **172. Acquisition and sale of land**

- (1) The Minister may acquire private land which is not the subject of a lease under the Land Acquisition Act 1993 for the purposes of this Act.
- (2) A purpose for which land is acquired under this section is a public purpose within the meaning of the Land Acquisition Act 1993 .
- (3) A person may apply for a mineral tenement in respect of land acquired under this section.
- (4) The Minister may sell land acquired under this section in accordance with section 73 of the Land Acquisition Act 1993 as if the Minister were an acquiring authority.

### **173. Seizure of minerals taken from Crown land**

- (1) The Director may authorise a person or an inspector to seize and detain any minerals which have been taken unlawfully.
- (2) Any person who claims an interest in any minerals seized may apply to the Director for their return.
- (3) The Minister may direct that any minerals which are not claimed after seizure be sold or otherwise dealt with in any manner the Minister determines.

### **174. Removal of persons**

- (1) A police officer or inspector may remove from land held under a mineral tenement a person who, without the consent of the holder of the mineral tenement –
  - (a) is mining on that land; or
  - (b) is taking or removing any minerals from the land.
- (2) In exercising a power under subsection (1) , a police officer or inspector may use any force that is reasonable to remove the person.

### **175. Interest in mineral tenement**

- (1) The interest of any person in a mineral tenement passes –
  - (a) to his or her personal representative, on death; or
  - (b) to the trustee or liquidator, in the case of a bankruptcy.
- (2) If a person has made a bequest of an interest in a mineral tenement in his or her will, the executor or administrator is to notify the Director of that bequest within 7 days after assenting to the bequest.

### **176. Legal or equitable interest**

- (1) A legal or equitable interest in or affecting any mineral tenement is of no effect unless –
  - (a) it is created or dealt with by a written instrument; and
  - (b) the written instrument is approved by the Minister; and
  - (c) the interest is in favour of –
    - (i) any person 18 years of age or more; or
    - (ii) a body corporate; or
    - (iii) a combination of such a person and a body corporate.
- (2) A person may apply to the Minister for approval of a written instrument referred to in subsection (1) .
- (3) An application is to –
  - (a) be in an approved form; and
  - (b) be accompanied by the prescribed fee; and
  - (c) contain any information the Minister requires; and
  - (d) be lodged with the Registrar.

- (4) The Minister may –
- (a) grant the application subject to any condition the Minister considers appropriate; or
  - (b) refuse to grant the application.
- (5) The Minister, by notice in writing, must notify the applicant of –
- (a) the grant of the application; or
  - (b) the refusal to grant the application and the reason for the refusal.

**177. Lost licence or lease**

- (1) A licensee or lessee may apply to the Director for a duplicate licence or lease if the original has been lost or destroyed.
- (2) The Director may issue a duplicate of a licence or lease if satisfied that –
- (a) the original licence or lease has been lost or destroyed; and
  - (b) the term of the original licence or lease has not expired.

**178. Invalidated licence or lease**

- (1) A licensee or lessee whose licence or lease is invalidated because of native title being determined in respect of the licence area or lease area has exclusive right to apply for a new licence or lease in respect of that area.
- (2) An exclusive right to apply for a new licence or lease under subsection (1) is in force for a period of 12 months from the date on which the former licence or lease is invalidated or until an application has been made under this section, whichever is the earlier.

**179. Leases and licences in respect of Aboriginal land**

The Minister may not grant a lease or licence in respect of Aboriginal land, within the meaning of the Aboriginal Lands Act 1995 , without the agreement of the Aboriginal Land Council of Tasmania established under that Act.

***Division 2 - Rehabilitation of abandoned mining lands***

**180. Contracts for rehabilitation of mining lands**

The Minister may –

- (a) cause any abandoned mining land or land affected by former exploration activities to be rehabilitated; and
- (b) enter into any contract relating to the environmental rehabilitation of any abandoned mining land or land affected by former exploration activities.

**181. Rehabilitation of Mining Lands Trust Fund**

- (1) There is established in Treasury a Rehabilitation of Mining Lands Trust Fund.
- (2) The Rehabilitation Trust Fund consists of –
- (a) any money appropriated by Parliament for the purposes of this Part; and
  - (b) any money received from the sale of any building, machinery or property vested in the Crown under section 105 (4) ; and
  - (c) any security deposit or part of a security forfeited by the Minister under section 198 ; and
  - (d) any other money received for the purpose of this Part; and
  - (e) any money the Treasurer directs to be paid into the Rehabilitation Trust Fund.

**182. Application of Rehabilitation Trust Fund**

Any money in the Rehabilitation Trust Fund is to be applied for the purpose of this Part.

### ***Division 3 - Caveats***

#### **183. Lodgment**

- (1) Any person with an interest in a mineral tenement may lodge with the Registrar a caveat forbidding the approval of any transfer or other dealing affecting that mineral tenement.
- (2) A caveat is to –
  - (a) be in an approved form; and
  - (b) state details of the interest claimed; and
  - (c) state the full name and address of the caveator; and
  - (d) state an address for the service of notices and proceedings; and
  - (e) be accompanied by the prescribed fee.
- (3) A person must not lodge successive caveats in respect of the same interest without the Minister's approval.

#### **184. Notice of lodgment**

- (1) On receipt of a caveat lodged under section 183, the Registrar is to give notice to the holder of the mineral tenement affected of the caveat of the lodgment.
- (2) A notice is to be –
  - (a) in writing; and
  - (b) sent by registered post.
- (3) The holder of the mineral tenement affected may appeal to the Mining Tribunal against the caveat within 14 days after receipt of the notice.

#### **185. Duration of caveat**

- (1) A caveat takes effect on the date on which it is lodged.
- (2) A caveat ceases to have effect –
  - (a) if the Mining Tribunal orders its removal, on the date of that order; or
  - (b) if the caveat is withdrawn, on the date of that withdrawal; or
  - (c) if an application is made –
    - (i) to transfer a licence or lease and an appeal to the Mining Tribunal is not on foot in relation to the caveat, 14 days after the date on which a notice under section 32(4), section 45C(4), section 62(4), section 67W(4) or section 93(4) is received by the person to whom it is sent; or
    - (ii) to transfer a licence or lease and an appeal to the Mining Tribunal is on foot in relation to the caveat, on the date on which the Mining Tribunal orders the removal of the caveat, if at all.

#### **186. Caveats under agreement**

- (1) If the holder of a mineral tenement or an applicant for a lease enters into an agreement with any person for the sale of any interest in the mineral tenement or application, either party may lodge a caveat.
- (2) A caveat under subsection (1) is to be –
  - (a) in accordance with section 183 (2); and
  - (b) accompanied by a copy of the agreement.
- (3) A caveat lodged under this section remains in force –
  - (a) for the period specified in the agreement, unless sooner withdrawn by the consent of the parties; or

(b) until removed by order of the Mining Tribunal.

### ***Division 4 - Records and confidentiality***

#### **187. Records kept by licensee**

(1) A licensee (other than the holder of a production licence) is to keep up-to-date records of any exploration carried out under the licence.

(2) A licensee (other than the holder of a production licence) is to ensure that records contain the following:

- (a) details of any exploration carried out;
- (b) the costs of any exploration carried out;
- (c) any other details the Director requires.

(3) The holder of a production licence must keep up-to-date records of any exploration and production activities carried out under the licence.

(4) The holder of a geothermal production licence is to ensure that the records contain the following:

- (a) the quantities of geothermal energy produced;
- (b) the quantities of geothermal energy produced and sold;
- (c) the sources of geothermal energy that has been produced;
- (d) details of the disposal of any waste created in production activities;
- (e) details of any development in relation to production activities;
- (f) a breakdown of any capital expenditure;
- (g) the operational costs of any exploration or production activities carried out;
- (h) details of the workforce;
- (i) details of exploration on the licence area, if required by the Director to keep such records;
- (j) details of geothermal resources and geothermal reservoirs.

(5) The holder of a petroleum production licence is to ensure that the records contain the following:

- (a) the quantities of petroleum sold or held in stock;
- (b) the quantities of petroleum produced;
- (c) the sources of petroleum produced and details of any waste disposed of;
- (d) details of any development in relation to production activities;
- (e) a breakdown of any capital expenditure;
- (f) the operational costs of any exploration or production activities carried out;
- (g) details of the workforce;
- (h) details of exploration on the licence area, if required by the Director to keep such records;
- (i) details of petroleum resources, as determined in accordance with approved standards, and petroleum reservoirs.

#### **188. Records kept by lessee**

(1) A lessee must keep up-to-date records of any exploration and mining carried out under the lease.

(2) A lessee is to ensure that records contain the following:

- (a) the quantities and values of products sold or held in stock;
- (b) the quantities of ore and waste mined and ore treated;

- (c) the sources of ore and waste mined and details of waste disposed of;
- (d) details of any mine development undertaken;
- (e) details of any process development;
- (f) a breakdown of any capital expenditure;
- (g) the operating costs of any mining and exploration carried out;
- (h) details of the workforce;
- (i) details of on-lease exploration as the Director requires;
- (j) details of ore reserves and resources in accordance with the standards as published by the Australasian Joint Ore Reserves Committee or another body that the Minister has nominated by notice in writing to the lessee.

#### **188A. Accurate plans of mines to be made and kept**

- (1) A lessee must ensure that accurate plans of any mine that is established or used under the lease are prepared and kept by the lessee.
- (2) A lessee must ensure that an accurate plan of any additional working of, or extension to, a mine that is established, or used, under the lease is prepared and kept by the lessee.
- (3) If an underground mine has been established or used under a lease, the lessee must ensure that an accurate plan of the mine, and any additional working of, or extension to, the mine, is made before the mine is abandoned, filled or allowed to fall into disrepair.
- (4) The plan of a mine, and of any additional working of, or extension to, a mine, is to be drawn up in accordance with a survey carried out by a qualified surveyor.
- (5) A lessee must ensure that the original, or a copy, of a plan required to be made under this section is provided to the Director within 6 months after the plan is made or this section commences, whichever occurs last.
- (6) If the Director is of the opinion that a plan required to be made under this section has not been made or kept, or has not been accurately made, the Director may –
  - (a) cause a survey to be made of all or any part of the mine and accurate plans of the mine, based on that survey, to be drawn up; and
  - (b) charge the lessee the reasonable costs incurred in having the survey made and the plans drawn up.

#### **189. Copies of records and plans**

A licensee or lessee is to –

- (a) submit to the Director a copy of records, plans, or information, kept under this Part as and when, and in the manner and form, required by the Director; and
- (b) permit the Director to examine any record, plans, or information, kept under this Part.

#### **190. Confidentiality of records**

- (1) Any records, returns or information submitted to the Director under this Act are to be kept confidential for the following periods:
  - (a) records, returns or information relating to any exploration carried out under an exploration licence, or special exploration licence, for whichever of the following is the shorter:
    - (i) a period of 5 years from the date on which the records, returns or information is required to be submitted;
    - (ii) the period during which the licence is in force;

- (b) records, returns or information relating to any exploration carried out under a retention licence, the period during which the licence is in force up to a maximum of 5 years;
  - (c) records, returns or information relating to any exploration and mining carried out under a lease or production licence, the period during which the lease or licence is in force.
- (2) Records, returns or information is to be kept confidential after the licence ceases to be in force if–
- (a) an application for the extension of the term of a licence is made during its currency; and
  - (b) no more than 5 years have elapsed since the records, returns or information was required.
- (3) The Minister may extend the period during which records, returns or information is to be kept confidential.
- (3A) Despite subsection (1) , the Minister may provide records, returns, or information, in relation to the amount of minerals obtained under a licence or lease, to –
- (a) the Director, within the meaning of the Environmental Management and Pollution Control Act 1994 , for use by the Director in the performance or exercise of the Director's functions or powers under any Act; or
  - (b) an officer of the Commonwealth for use in the performance or exercise of functions or powers of the officer under any Act of the Commonwealth.
- (4) This section (apart from subsection (3A) ) does not apply to any records, returns or information which–
- (a) the licensee or lessee agrees may be made public; or
  - (b) deal exclusively with exploration carried out in any area which is no longer comprised in the licence or lease.
- (5) The Right to Information Act 2009 does not apply to any records, returns or information for the period during which they are to be kept confidential under this section.

#### **191. Publication of records, returns and information**

- (1) The Minister may arrange for any records, returns or information to be published, printed, adapted or reproduced at any time after the period during which they are to be kept confidential expires.
- (2) Any records, returns or information published, printed, adapted or reproduced under subsection (1) are to contain a statement acknowledging any person's copyright in the records, returns or information.

### ***Division 5 - Register***

#### **192. Mining register**

- (1) The Registrar is to keep a mining register.
- (2) The Registrar, by any means approved by the Director, is to register the following:
  - (a) licences;
  - (b) leases;
  - (c) subleases;
  - (d) notices to forgo an exclusive right to apply for a lease;
  - (e) notices to forgo an exclusive right to apply for a retention licence;
  - (f) certificates of exemption from conditions of licences and leases;
  - (g) transfer of licences and leases;
  - (h) variation of licences and leases;
  - (i) extension of licences and leases;
  - (j) surrender of licences and leases;

- (k) revocation of licences and leases;
- (l) compensation agreements;
- (m) caveats;
- (n) any legal or equitable interest;
- (o) any other prescribed matter.

### **193. Correction of register**

- (1) The Registrar may correct any error or omission in the register by –
  - (a) inserting an entry; or
  - (b) amending an entry; or
  - (c) deleting an entry.
- (2) The Registrar is to notify the appropriate licensee or lessee of any correction made to the register that may affect any licence or lease issued under this Act.

### **194. Inspection of register**

- (1) The Registrar is to make the register available for inspection during normal business hours.
- (2) Any person, on payment of the prescribed fee, may –
  - (a) inspect the register; and
  - (b) obtain an extract of an entry in the register; and
  - (c) obtain a copy of anything registered in the register.

## ***Division 6 - Fees and deposits***

### **195. Refund of application fee**

The Director may refund a fee paid in respect of an application for a licence or lease if –

- (a) the application is unsuccessful; and
- (b) the Director is of the opinion there is sufficient reason to do so.

### **196. Use of security deposit**

- (1) The Minister may use any amount of a security deposit provided by a licensee or lessee for the following purposes:
  - (a) to remedy any damage to private property if the licensee or lessee fails to pay compensation under Part 8 ;
  - (ab) to provide for the costs of depositing with the Director any drill core or cutting that has not been deposited with the Director as required by or under this Act;
  - (ac) to make safe any safety hazard caused by mining operations or exploration under a licence or lease held by the licensee or lessee;
  - (b) to mitigate any damage to the environment caused by mining operations or exploration under a licence or lease held by the licensee or lessee.
- (2) The Minister may draw any amount of security deposit provided by a licensee if the licensee fails to carry out a work program in respect of the licence.

### **196A. Variation of security deposit**

The Minister may, at any time and on more than one occasion, increase or decrease the size of a security deposit required under this Act by such amount as the Minister considers appropriate having regard to the purpose of

the security deposit and such of the matters referred to in section 196 as are relevant.

#### **197. Refund of security deposit**

(1) The Minister may refund the balance of any security deposit remaining after any amount has been used under section 196 .

(1A) The Minister may refund all or part of any security deposit if the Minister considers it appropriate.

(2) The Minister must not refund the balance until whichever of the following occurs last:

(a) if a claim for compensation is not made within the period specified in section 146 , at the end of the period;

(b) if a claim for compensation is made within that period, after the Mining Tribunal determines the amount of compensation under section 150 .

#### **198. Forfeiture of security deposit**

A licensee or lessee may forfeit any security deposit or part of a security deposit –

(a) if the licensee or lessee fails to comply with a condition of the licence or lease; or

(ab) if the licensee or lessee fails to provide an annual report or final report within the required period;  
or

(b) if the Minister revokes the licence or lease; or

(c) for any other reason the Minister determines.

### ***Division 7 - Miscellaneous matters***

#### **199. Evidence**

(1) A certificate issued by the Director certifying as to any matter in the register is evidence of that matter.

(2) The issue of a licence or lease under this Act is evidence of compliance with any condition precedent to that issue.

#### **199A. Director may require purchaser to provide information**

(1) In this section –

***mining product*** means a mineral in the form in which it is obtained under a licence or lease or in a form produced by the holder of the licence or lease or a person acting on behalf of the holder of the licence or lease.

(2) The Director may, by notice in writing to a person who purchases, from the holder of a licence or lease, a mining product specified in the notice, require the person to submit to the Director a return specifying the nature, quantity, value and source of that mining product.

(3) A return submitted to the Director under subsection (2) is to be accompanied by a statutory declaration as to its accuracy.

(4) A person must not fail to comply with a requirement imposed on the person under subsection (2) .

Penalty: 100 penalty units.

#### **200. Atomic substance**

The Minister, by order, may declare a substance to be an atomic substance for the purposes of this Act.

#### **201. Delegations**

(1) The Minister may delegate to the Director any powers or functions of the Minister under this Act, other than this power of delegation.

(2) The Director may delegate to any person any powers or functions of the Director or Registrar under this Act, other than this power of delegation.

## **202. False and misleading statements**

A person, in giving any information or making any return under this Act, must not –

- (a) make a statement knowing it to be false or misleading; or
- (b) omit any matter from a statement knowing that without that matter that statement is misleading.

Penalty: Fine not exceeding 50 penalty units.

## **203. Orders to be Statutory Rules**

Any order made under this Act is a statutory rule within the meaning of the Rules Publication Act 1953 .

## **204. Code of practice**

(1) The Minister may approve a Code of practice for the practical guidance of persons involved in exploration, mining operations, prospecting or fossicking.

(2) A Code of practice may –

- (a) consist of any code, standard, rule, specification or provision relating to exploration, mining operations, prospecting or fossicking, prepared or adopted by the Director; and
- (b) apply, incorporate or refer to any document formulated or published by any body or authority as in force at the time the Code of practice is approved or as amended, formulated or published.

(3) The Minister may –

- (a) approve any revision of the whole or part of a Code of practice; or
- (b) revoke a Code of practice.

(4) Before approving a Code of practice or the revision of the whole or part of a Code of practice or before revoking a Code of practice, the Minister must –

- (a) consult with any person or organisation the Minister considers appropriate having regard to the application of the Code of practice; and
- (b) by notice published in the *Gazette* and in 3 daily newspapers published and circulating in the State, give 28 days' notice of the intention to approve the Code of practice or the revision or revocation of the Code of practice.

(5) The Minister must give notice in the *Gazette* and in 3 daily newspapers published and circulating in the State of –

- (a) the approval of a Code of practice; or
- (b) the approval of the revision of the whole or part of a Code of practice; or
- (c) the revocation of a Code of practice.

(6) A notice under subsection (5) is not a statutory rule within the meaning of the Rules Publication Act 1953 .

(7) The Minister must make available in the Department for inspection by members of the public without charge during normal office hours a copy of –

- (a) every approved Code of practice; and
- (b) if an approved Code of practice is revised and the revision is approved, the approved Code of practice as so revised; and
- (c) if an approved Code of practice applies, incorporates or refers to any other document, that other document.

(8) An approved Code of practice and any approved version of a Code of practice have effect on the day on which notice of the approval is published in the *Gazette*.

(9) An approved Code of practice ceases to have effect on the day on which notice of the revocation is published in the *Gazette*.

(10) A person is not liable to any civil or criminal proceedings only because the person has failed to observe any provision of an approved Code of practice.

#### **204A. Reporting guidelines**

(1) The Minister may issue guidelines for the preparation of mineral tenement reports and returns under this Act by licensees or lessees.

(2) The guidelines may specify –

(a) the form in which mineral tenement reports and returns under this Act are to be prepared; and

(b) the matters that mineral tenement reports and returns under this Act are to contain.

#### **205. Regulations**

(1) The Governor may make regulations for the purposes of this Act.

(2) The regulations may be made so as to apply differently according to matter, limitation, restriction, exception or circumstance specified in the regulations.

(3) The regulations may adopt, either wholly or partly and with or without modification, any standards, rules, codes or specifications of any body, organisation or association.

(4) The regulations may –

(a) authorise any matter to be determined, applied or regulated by a specified person or body; and

(b) confer a power or impose a duty on a specified person or class of person.

(5) The regulations may –

(a) provide that a contravention of, or a failure to comply with, any of the regulations is an offence; and

(b) in respect of such an offence, provide for the imposition of a fine not exceeding 10 penalty units and, in the case of a continuing offence, a further fine not exceeding 2 penalty units for each day during which the offence continues.

(6) Regulations made for the purpose of section 102(1B) may take effect retrospectively.

#### **206. Repeal**

The Acts specified in Schedule 1 are repealed.

#### **207. Savings and transitional provisions**

The savings and transitional provisions specified in Schedule 2 apply.

#### **208. Administration of Act**

Until provision is made in relation to this Act by order under section 4 of the Administrative Arrangements Act 1990 –

(a) the administration of this Act is assigned to the Minister for State Development and Resources; and

(b) the Department responsible to the Minister for State Development and Resources in relation to the administration of this Act is Tasmania Development and Resources.

## **SCHEDULE 1 - Repeals**

Section 206

*Aid to Mining Act 1927* (18 Geo. V No. 47)

*Mining Act 1929* (20 Geo. V No. 71)

*Mining Act 1958* (No. 70 of 1958)

*Mining Amendment (Beaconsfield Gold Mine) Act 1988* (No. 56 of 1988)

*Mining Amendment Act 1989* (No. 21 of 1989)

*Mineral Resources Act 1951* (No. 25 of 1951)

## SCHEDULE 2 - Savings and Transitional Provisions

Section 207

### 1. Interpretation

In this Schedule –

*commencement day* means the day on which this Act commences;

*repealed Act* means the Mining Act 1929 .

### 2. Contracts and agreements

Any contract or agreement made under the repealed Act before the commencement day is, on or after that day, enforceable as if it were made under this Act.

### 3. Appeals and objections

(1) Any appeal instituted under the repealed Act and not heard or determined before the commencement day may, on or after that day, be heard and determined under the repealed Act.

(2) Any objection made under the repealed Act and not heard or determined before the commencement day may, on or after that day, be heard and determined under the repealed Act.

### 4. Proceedings

Any proceedings instituted under the repealed Act and not heard or determined before the commencement day may, on or after that day, be heard and determined under the repealed Act.

### 5. Land and minerals exemptions

Any land or mineral exempted under the repealed Act from the provisions of that Act before the commencement day is, on that day, exempted from the provisions of this Act until an order is made under section 5(4) of this Act.

### 6. Public reserves

Any public reserve declared under the repealed Act to be land to which that Act applied before the commencement day is, on that day, land to which this Act applies.

### 7. Exploration licences

(1) The following rights and entitlements in force under the repealed Act immediately before the commencement day are, on that day, exploration licences under this Act:

- (a) exploration licence;
- (b) prospector's licence;
- (c) owner's right;
- (d) owner's consent.

(2) An application for a right or entitlement referred to in subclause (1) made under the repealed Act and not determined before the commencement day may, on and after that day, be determined as if it were an application for an exploration licence under this Act.

### 8. Retention licences

(1) A retention licence in force under the repealed Act immediately before the commencement day is, on that day, a retention licence under this Act.

(2) An application for a retention licence made under the repealed Act and not determined before the commencement day may, on and after that day, be determined as if it were an application for a retention licence under this Act.

## **9. Mining leases**

(1) The following rights and entitlements in force under the repealed Act immediately before the commencement day are, on that day, mining leases under this Act:

- (a) mining lease;
- (b) mining easement;
- (c) dam site easement;
- (d) tailings easement;
- (e) housing easement.

(2) An application for a right or entitlement referred to in subclause (1) made under the repealed Act and not determined before the commencement day may, on and after that day, be determined as if it were an application for a mining lease under this Act.

## **10. Subleases**

(1) A tribute or sublease in force under the repealed Act immediately before the commencement day is, on that day, a sublease under this Act.

(2) An application for a tribute or sublease made under the repealed Act and not determined before the commencement day may, on and after that day, be determined as if it were an application for a sublease under this Act.

## **11. Conditions**

Any right or entitlement which is an exploration licence, a retention licence, a mining lease or a sublease by virtue of this Schedule –

- (a) is subject to the same terms, conditions, covenants and exemptions as it was under the repealed Act; and
- (b) continues in force for the remainder of the period for which it was granted, issued or renewed.